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Monday
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## Selected Subjects

**Air Pollution Control**
Environmental Protection Agency

**Air Traffic Control**
Federal Aviation Administration

**Aviation Safety**
Federal Aviation Administration

**Bridges**
Coast Guard

**Cable Television**
Copyright Office, Library of Congress

**Explosives**
Mine Safety and Health Administration

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National Oceanic and Atmospheric Administration

**Grant Programs—Health**
Public Health Service

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Federal Highway Administration

**Hunting**
Fish and Wildlife Service

**Marine Safety**
Coast Guard

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Postal Service

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# Selected Subjects

**Stockyards**
Packers and Stockyards Administration

**Voting Rights**
Personnel Management Office

**Water Pollution Control**
Environmental Protection Agency

**Wildlife Refuges**
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# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Packers and Stockyards Administration

### 9 CFR Parts 201 and 203

### Review and Consolidation; Regulations and Policy Statements; Registrations, Rates, Brand Inspection and Stockyard Posting

**AGENCY:** Packers and Stockyards Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule adopts as a final rule, with a technical amendment, the proposed rule published in the **Federal Register** on May 1, 1984 (49 FR 18672). The final rule places restrictions on the lease and transfer of acreage allotment and marketing quotas for the 1985 and 1986 crops of flue-cured tobacco; eliminates lease and transfer of acreage allotments and marketing quotas beginning with the 1987 crop of flue-cured tobacco; makes certain provisions relating to forfeiture of acreage allotments and marketing quotas less restrictive; and adds new provisions which will require the sale or forfeiture of acreage allotments and marketing quotas if, during as least two years of any three year period, flue-cured tobacco is not planted or considered planted on the farm for which such allotments and quotas are established. The technical amendment provides for considered planted credit for the purpose of establishing future farm acreage allotments when a flue-cured tobacco acreage allotment and marketing quota has been reduced as the result of overmarketing or a violation of marketing quota regulations.

**EFFECTIVE DATE:** September 19, 1984.

**FOR FURTHER INFORMATION CONTACT:** Harold W. Davis, Director, Livestock Marketing Division, phone (202) 447-6951, or Kenneth Stricklin, Director, Packer and Poultry Division, phone (202) 447-7363.

**SUPPLEMENTARY INFORMATION:** The proposed changes in the regulations and policy statements relating to registration, rates, brand inspection, stockyard posting, packer ownership of custom feedlots and self-regulation by stockyard owners and market agencies were published in the **Federal Register** on May 12, 1982 (47 FR 20311). Seventy-seven comments were timely filed in response to the notice, the majority of which endorsed the regulatory review initiatives of the Packers and Stockyards Administration and specifically the proposals announced May 12, 1982.

#### Industry Rules

Eight of the seventy-seven comments filed specifically addressed the proposal to remove § 201.4. Those commenting requested that § 201.4 be retained because the regulation fosters reasonable self-regulation and orderly marketing at the stockyards. The position advanced by affected industry members is sound. The Administration encourages those subject to the Act to conduct their business in an ethical manner, and because § 201.4 encourages industry members to establish reasonable standards, rules, regulations or bylaws for ethical self-government, the Administration has determined that § 201.4 will not be removed as proposed. Retention of § 201.4 does not impose any reporting, recordkeeping or regulatory burden on the industry.

#### Posting Stockyards

One comment addressed the proposal to revise § 201.6 regarding the deposting of stockyards. The writer agrees with the intent of the proposal, but believes the Act requires that a copy of the notice of deposting be posted at the stockyard. Prior to the amendment to the Act which made all stockyards operating in commerce subject to the jurisdiction of the Secretary, the procedure of placing a notice of deposting at the stockyard advised the public that continued operations at the stockyard were not subject to the jurisdiction of the Secretary. Presently, a stockyard is deposted only after it has ceased operations and the available evidence indicates operations will not be resumed. When the stockyard is no longer operating and/or the physical structures have been removed, it ceases to be a stockyard as defined in section 302(a) of the Act (7 U.S.C. 202(a)). Therefore, the deposting requirements set forth in section 302(b) do not apply. The Administration has determined, therefore, that § 201.6 as proposed will be adopted as a final rule because it will streamline Agency procedure and reduce Agency costs.

No comments were received in opposition to the proposed removal of § 201.7, and it will therefore be removed for the reasons set forth in the May 12, 1982, proposal.

#### Registration

Most of the comments filed in response to the May 12, 1982, proposal either supported or expressed no objection to the proposed revisions in §§ 201.10 through 201.13.

Four responses recommended that the revision to § 201.10(a) eliminating the requirement that a current financial statement accompany the application for registration not be adopted. Those commenting expressed concern that the proposed revision would permit the registration of dealers and market agencies in weak financial condition. As a practical matter, however, the bonding requirements assure a review of the registrant's financial condition by a surety company or a financial institution, and in most instances a registrant's ability to obtain bond coverage is the best indication of sound financial condition. In addition, § 201.10(a), as proposed, will require the applicant to certify that its financial condition meets the requirements of the Act. Furthermore, when the Administration has reason to believe the applicant's financial condition may not meet the requirements of the Act, it will require the applicant to file a current financial statement. Since most applicants for registration meet the "current ratio" test of solvency, they should not be burdened with the cost of preparing and filing a current financial statement. The Administration has concluded that § 201.10(a) will be adopted as a final rule.

Two responses opposed the proposed change in § 201.10(b) to clarify the conditions under which the Administrator may institute a "show cause" proceeding to deny an application for registration. The persons

filing those comments objected to what they perceived to be an expansion of the Administrator's authority to institute "show cause" hearings when there is reason to believe the applicant is unfit to engage in business subject to the Act, and expressed the concern that in a "show cause" hearing the burden is upon the applicant to demonstrate its fitness to engage in business under the Act. These concerns are unfounded. In "show cause" proceedings, the Agency bears the burden of demonstrating that the applicant is unfit. The applicant is afforded full opportunity under the Rules of Practice (7 CFR 1.130 *et seq.*) to present rebuttal evidence. The Secretary's authority to prescribe reasonable rules and regulations with respect to registration under the Act is contained in section 303 of the Act (7 U.S.C. 203). Accordingly, for the reasons set forth in the proposal of May 12, 1982, the revision of § 201.10(b), as proposed, will be adopted.

No comments were received in opposition to the proposed revision to paragraph (d) of § 201.10, and it will, therefore, be revised for the reasons set forth in the May 12, 1982, proposal.

Two comments related to the proposed consolidation of §§ 201.11 and 201.12 into a single regulation. Those commenting believe that the phrase "or otherwise associated with such registrant" is overly broad. The Administration disagrees with this comment because the proposal specifies that only persons otherwise associated with such registrant who were "responsible for or participated in the violation on which the order of suspension was based" may be denied registration under this provision. The proposed regulation has been modified to clarify this position, and the regulation as modified will be adopted as a final rule. Section 201.12 will be removed as proposed.

No comments were received in opposition to the proposal to remove regulation § 201.13. Therefore, § 201.13 will be removed.

**Rates and Charges**

Two of the comments specifically recommended the proposed changes but suggested the inclusion of a conspicuous posting requirement. The Administration believes this recommendation has merit, and has modified the proposed regulation accordingly. In addition, certain nomenclature changes have been made to achieve uniformity. The Administration has determined that § 201.17, as modified, will be adopted as a final rule. As proposed, §§ 201.19, 201.20, 201.21, 201.22, 201.23, 201.24, 201.25, and 201.26 will be removed.

**Packer Ownership of Custom Feedlots**

Sixty-seven of the seventy-seven comments responded to the proposal concerning packer ownership of custom feedlots. Those favoring the proposal share the view that packer/custom feedlot arrangements do not, in themselves, constitute violations of the Packers and Stockyards Act and that the Administration should analyze each such arrangement on its own merits. The commenters believe that such arrangements may promote efficiency and improve competition, and that unless such arrangements are used to manipulate prices or otherwise restrain competition, or give rise to unfair or deceptive practices, they should not be prohibited.

Opposition to the proposal is based on the belief that the proposed change would invite conflicts of interest for packers, provide them with opportunities to restrain competition, and result in further concentration in the meat industry.

Many of the comments received addressed an issue not raised in the proposal. The issue in this proposal is packer ownership or control of custom feedlots. Several of the responses to the proposal appear to have confused it with the issue of packer feeding of livestock. Neither the Packers and Stockyards Act, the existing regulation, nor the proposed policy statement prohibits packers from feeding livestock. Many responding also viewed the existing regulation as substantive, that is, having the full force and effect of law rather than an advisory rule setting forth the position of the Agency.

A common thread of the comments is the concern that going from a regulation to a policy statement signals a change in philosophy from an active enforcement of the provisions of the Packers and Stockyards Act to a passive approach with reliance on the industry for self-policing. That is not the intent of the Administration. As stated in the proposal, § 201.70a does not, as a matter of law, set forth a *per se* violation of the Act, and the intent of the Administration in proposing § 203.18 was to clarify the enforcement of the law with respect to such arrangements.

The Administration has considered all comments received and has determined that proposed policy statement § 203.18 will be adopted.

**Brand Inspection**

None of the comments filed made any specific reference to the proposal to consolidate into one regulation the provisions of §§ 201.86 through 201.93 relating to brand inspection. The Administration has determined that § 201.86 as proposed will be adopted as a final rule. Sections 201.87, 201.88, 201.89, 201.90, 201.91, 201.92, and 201.93, will be removed.

**Policy Statements**

No opposition was expressed concerning the proposal to remove policy statement § 203.8. Accordingly, policy statement § 203.8 will be removed.

Eight of the seventy-seven comments filed opposed the removal of paragraph (c) from policy statement § 203.17. Those filing comments believe that the proposed change could be disruptive and detrimental to the interest of consignors and weaken the services provided livestock producers. In the event that removal of paragraph (c) adversely affects consignors, proves disruptive to the orderly marketing of livestock at terminal stockyards, or diminishes the quality of market agency services, the Administration will exercise its authority to prescribe rates.

The Administration has given careful consideration to the comments received and has determined it is appropriate to remove both paragraphs (c) and (f) of policy statement § 203.17 as proposed.

Policy statement § 203.18 is adopted as proposed for the reasons previously stated in the discussion of packer ownership of custom feedlots.

**Executive Order**

It has been determined that the proposals to amend and remove regulations relating to the posting of stockyards, the registration of market agencies and dealers, rates and charges, packer ownership of custom feedlots, and brand inspection are not "major" rules as defined by section 1(b) of E.O. 12291.

**Regulatory Flexibility Act**

B. H. (Bill) Jones, Administrator, Packers and Stockyards Administration, has determined that these proposals will not have a significant economic impact on a substantial number of small entities.

These proposals will reduce the cost of doing business for market agencies and dealers by eliminating the costs associated with the requirements for preparing and filing financial statements with applications for registration and the filing of name and ownership changes by registrants and stockyard owners. Similarly, paperwork costs to the Agency will be reduced.

**Paperwork Reduction Act of 1980**

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C 3501 *et seq.*), the reporting or recordkeeping provisions that are included in these rules have been approved by the Office of Management and Budget (OMB) and have been assigned numbers 0590–0001 or 0590–0002.

**List of Subjects**

*9 CFR Part 201*

Reporting and recordkeeping requirements, Stockyards, Surety bonds, Trade practices.

*9 CFR Part 203*

Reporting and recordkeeping requirements, Stockyards, Trade practices.

Accordingly, Parts 201 and 203, Chapter II of Title 9 of the Code of Federal Regulations, are amended as set forth below.

**PART 201 [AMENDED]**

1. Section 201.6 is revised to read as follows:

**§ 201.6 Deposting of stockyards; notice.**

When a stockyard is found to no longer come within the definition of that term as contained in the Act, the stockyard shall be deposted by (a) publication of the determination in the Federal Register and (b) mailing notice to the stockyard owner at the last known address.

**§ 201.7 [Removed]**

2. In part 201, § 201.7 is removed.

3. Section 201.10 is revised to read as follows:

**§ 201.10 Requirements and procedures.**

(a) Every person operating or desiring to operate as a market agency or dealer as defined in section 301 of the Act shall apply for registration under the Act. To apply for registration, such persons shall file a properly executed application for registration, on forms furnished by the Agency, and the bond as required in § 201.27 through 201.35.

(b) Each application for registration shall be filed with the regional supervisor for the region in which the applicant proposes to operate. If the Administrator has reason to believe that the applicant is unfit to engage in the activity for which application has been made, a proceeding shall be promptly instituted in which the applicant will be afforded opportunity for full hearing in accordance with the rules of practice governing such proceedings, for the purpose of showing cause why the application for registration should not be denied. In the event it is determined that the application should be denied, the applicant shall not be precluded, as soon as conditons warrant, from again applying for registration.

(c) Any person regularly employed on salary, or other comparable method of compensation, by a packer to buy livestock for such packer shall be subject to the registration requirements of the Act and the regulations. Such person shall be registered as a dealer to purchase livestock for slaughter.

(d) Every person clearing or desiring to clear the buying operations of other registrants shall apply for registration as a market agency providing clearing services by filing a properly executed application, on forms furnished by the Agency, and the bond as required in § 201.27 through 201.35.

(Approved by the Office of Management and Budget under control number 0590–0002)

4. Section 201.11 is revised to read as follows:

**§ 201.11 Suspended registrants; officers, agents, and employees.**

Any person whose registration has been suspended, or any person who was responsible for or participated in the violation on which the order of suspension was based, may not register in his own name or in any other manner within the period during which the order of suspension is in effect, and no partnership or corporation in which any such person has a substantial financial interest or exercises management responsibility or control may be registered during such period.

**§§ 201.12 and 201.13 [Removed]**

5. In Part 201, §§ 201.12 and 201.13 are removed.

6. Section 201.17 is revised to read as follows:

**§ 201.17 Requirements for filing tariffs.**

(a) *Shedules of rotes changes for stockyard services.* Each stockyard owner and market agency operating at a posted stockyard shall file with the regional supervisor for the region in which they operate a signed copy of all schedules of rates and charges, supplements and amendments thereto. The schedules, supplements and amendments must be conspicuously posted for public inspection at the stockyard, and filed with the regional supervisor, at least 10 days before their effective dates, except as provided in paragraphs (b) and (c) of this section. Each schedule, supplement and amendment shall set forth its effective date, a description of the stockyard services rendered, the stockyard at which it applies, the name and address of the stockyard owner or market agency, the kind of livestock covered by it, and any rules or regulations which affect any rate or charge contained therein. Each schedule of rates and charges filed shall be designated by successive numbers. Each supplement and amendment to such schedule shall be numbered and shall designate the number of the schedule which it supplements or amends.

(b) *Feed charges.* When the schedule in effect provides for feed charges to be based on an average cost plus a specified margin, the 10-day filing and notice provision contained in section 306(c) of the Act is waived. A schedule of the current feed charges based on average feed cost and showing the effective date shall be conspicuously posted at the stockyard at all times. Changes in feed charges may become effctive 2 days after the change is posted at the stockyard.

(c) *Professional veterinary services.* The 10-day filing and notice provision contained in section 306(a) of the Act is waived for a schedule of charges for professional veterinary services. A schedule of charges for professional veterinary services rendered by a veterinarian at a posted stockyard shall be conspicuously posted at the stockyard at all times. The schedule of charges and any supplement or amendment thereto may become effective 2 days after the schedule, supplement, or amendment is posted at the stockyard.

(d) *Joint schedules.* If the same schedule is to be observed by more than one market agency operating at any one stockyard, one schedule will suffice for such market agencies. The names and business addresses of those market agencies adhering to such schedule must appear on the schedule.

(Approved by the Office of Management and Budget under control number 0590–0001)

**§§ 201.19—201.26 and 201.70a [Removed]**

7. In Part 201, §§ 210.19, 201.20, 201.21, 201.22, 201.23, 201.24, 201.25, 201.26, and 201.70a are removed.

8. Section 201.86 is revised to read as follows:

**§ 201.86 Brand Inspection: Application for authorization, registration and filing of schedules, reciprocal arrangements, and maintenance of identity of consignments.**

(a) *Application for authorization.* Any department or agency or duly-organized livestock association of any State in which branding or marking of livestock as a means of establishing ownership prevails by custom or statute, which

desires to obtain an authorization to charge and collect a fee for the inspection of brands, marks, and other identifying characteristics of livestock, as provided in section 317 of the Act, shall file with the Administrator an application in writing for such authorization. In case two or more applications for authorization to collect a fee for the inspection of brands, marks, and other identifying characteristics of livestock are received from the same State, a hearing will be held to determine which applicant is best qualified.

(b) *Registration and filing of schedules.* Upon the issuance of an authorization to an agency or an association, said agency or association shall register as a market agency in accordance with the provisions of §201.10, except that no bond need be filed or maintained, and shall file a schedule of its rates and charges for performing the service in the manner and form prescribed by §201.17.

(c) *Reciprocal arrangements.* Any authorized agency or association may make arrangements with an association or associations in the same or in another State, where branding or marking livestock prevails by custom or statute, to perform inspection service at stockyards on such terms and conditions as may be approved by the Administrator: *Provided,* that such arrangements will tend to further the purpose of the Act and will not result in duplication of charges or services.

(d) *Maintenance of identity of consignments.* All persons having custody at the stockyard of livestock subject to inspection shall preserve the identity of the consignment until inspection has been completed by the authorized inspection agency. Agencies authorized to conduct such inspection shall perform the work as soon after receipt of the livestock as practicable and as rapidly as is reasonably possible in order to prevent delay in marketing, shrinkage in weight, or other avoidable losses.

(Approved by the Office of Management and Budget under control number 0590-0001)

**§§ 201.87—201.93 [Removed]**

9. In part 201, §§ 201.87, 201.88, 201.89, 201.90, 201.91, 201.92, and 201.93 are removed.

**PART 203 [AMENDED]**

**§ 203.8 [Removed]**

10. In Part 203.8 is removed.

11. Section 201.17 is revised to read as follows:

**§ 203.17 Statement of general public with respect to rates and charges at posted stockyards.**

(a) Requests have been received from stockyard operators, market agencies, and livestock producers urging a reduction of rate regulation at posted stockyards. Their requests are based on the belief that competition among markets will set a level of rates and charges fair to both the market operator and to the livestock producer. Packers and Stockyards Administration will accept for filing tariffs containing any level of charges after 10 days' notice to the public and to the Secretary as required by the Act.

(b) Packers and Stockyards Administration will not investigate the level of rates and charges established by stockyard owners and market agencies for reasonableness except upon receipt of a valid complaint or under compelling circumstances warranting such an investigation. Stockyard owners and market agencies will have substantial flexibility in setting their own rates and charges.

(c) Complaints filed about the reasonableness of rates and charges will be investigated to determine the validity of such complaints and appropriate action taken if warranted.

(d) Packers and Stockyards Administration will continue to insure that the schedules of rates and charges filed with the Department are applied uniformly and in a nondiscriminatory manner.

(Approved by the Office of Management and Budget under control number 0590-0001)

12. A new § 203.18 is added to read as follows:

**§ 203.18 Statement with respect to packers engaging in the business of custom feeding livestock.**

(a) In its administration of the Packers and Stockyards Act, the Packers and Stockyards Administration has sought to promote and maintain open and fair competition in the livestock and packing industries, and to prevent unfair or anticompetitive practices when they are found to exist. It is the opinion of the Administration that the ownership or operation of custom feedlots by packers presents problems which may, under some circumstances, result in violations of the Packers and Stockyards Act.

(b) Packers contemplating entering into such arrangements with custom feedlots are encouraged to consult with the Administration prior to the commencement of such activities. Custom feedlots are not only places of production, but are also important marketing centers, and in connection with the operation of a custom feedlot, it is customary for the feedlot operator to assume responsibility for marketing fed livestock for the accounts of feedlot customers. When a custom feedlot is owned or operated by a packer, and when such packer purchases fed livestock from the feedlot, this method of operation potentially gives rise to a conflict of interest. In such situations, the packer's interest in the fed livestock as a buyer is in conflict with its obligations to feedlot customers to market their livestock to the customer's best advantage. Under these circumstances, the packer should take appropriate measures to eliminate any conflict of interest. At a minimum, such measures should insure: (1) That feedlot customers are fully advised of the common ties between the feedlot and the packer, and of their rights and options with respect to the marketing of their livestock; (2) that all feedlot customers are treated equally by the packer/custom feedlot in connection with the marketing of fed livestock; and (3) that marketing decisions rest solely with the feedlot customer unless otherwise expressly agreed.

(c) Packer ownership or operation of custom feedlots may also give rise to competitive problems in some situations. Packers contemplating or engaging in the business of operating a custom feedlot should carefully review their operations to assure that no restriction of competition exists or is likely to occur.

(d) The Packers and Stockyards Administration does not consider the existence of packer/custom feedlot relationships, by itself, to constitute a violation of the Act. In the event it appears that a packer/custom feedlot arrangement gives rise to a violation of the Act, an investigation will be made on a case-by-case basis, and, where warranted, appropriate action will be taken.

(Approved by the Office of Management and Budget under control number 0590-0001)

Authority: 7 U.S.C. 203, 204, 207, 217a, 222 and 228.

Done at Washington, D.C., this 13th day of August, 1984.

**B.H. (Bill) Jones,**

*Administrator, Packers and Stockyards Administration.*

[FR Doc. 84-21943 Filed 8-17-84; 8:45 am]

BILLING CODE 3410-01-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 84-CE-20-AD; Amdt. 39-4898]**

## Airworthiness Directives; SIAI-Marchetti Model S205, S208 and S208A Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Fine rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD), applicable to SIAI-Marchetti Model S205, S.208 and S208A series airplanes which supersedes AD 83-07-23, Amendment 39-4627 (48 FR 15455, 15456; April 11, 1983). To preclude failure of the main landing gear (MLG) AD 83-07-23 required frequent visual inspections of the long arm cross-member reinforcement plate weld area of a limited series of part numbered MLG assemblies, periodic dye penetrant inspection of all MLG assemblies and the replacement of these assemblies if cracks were found. Subsequent to the issuance of AD 83-07-23, SIAI-Marchetti issued a revised service bulletin, extending the visual inspection to additional part numbered MLG assemblies. This superseding AD extends the inspections to these part numbers.

**EFFECTIVE DATE:** August 23, 1984.

Compliance: As prescribed in the body of the AD.

**ADDRESSES:** SIAI-Marchetti Service Bulletin SB No. 205B48E, dated May 14, 1984, applicable to this AD may be obtained from SIAI-Marchetti S.p.A., V-12070 via Indipendenza, 2, 21018 Sesto Calende, Italy, telephone number 0331 924842/923598.

A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 011.32.2.513.38.30; or H.C. Belderok, Federal Aviation Administration, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-6932.

**SUPPLEMENTARY INFORMATION:** SIAI-Marchetti issued Service Bulletin (SB) No. 205B36, dated June 28, 1972, applicable to certain part numbered MLG assemblies on certain serial numbered SIAI-Marchetti S205 series airplanes. The SB required dye penetrant inspection of the weld areas between the MGL and the longer cross-member reinforcement plate, every 100 hours time-in-service. The FAA made compliance with SB No. 205B36 mandatory by issuing AD 72-24-01 (Amend. 39-1558).

Subsequently, the manufacturer received several reports of additional cracks in the weld areas, and based upon their review of the MLG service history, issued SB Nos. 205B48, 205B48A, 205B48B and on April 3, 1981, SB No. 205B48C, which extended the applicability to all S205, S208 and S208A series airplanes and to additional assembly part numbers. This latter SB extended the dye penetrant inspection of this area to all MLG assemblies and imposed visual inspections at shorter time intervals on some of these assemblies. The replacement of any cracked assemblies was required. The FAA found that the condition addressed by SB No. 205B48C was an unairworthy condition likely to exist on airplanes certificated for operation in the United States and issued AD 83-07-23, superseding AD 72-24-01, which required the visual and dye penetrant inspections, as described in SB No. 205B48C to be performed on the MLG assemblies of Model S205, S208 and S208A series airplanes. Subsequently, the manfacturer has received reports of cracks of the same weld areas affecting additional part numbers. As a result SIAI-Marchetti has issued Service Bulletin SB No. 205B48D, dated July 15, 1983, which extends the visual inspections to all MLG assembly part numbers, and subsequently issued SB No. 205B48E, dated May 14, 1984, which authorizes local repair in accordance with SIAI-Marchetti Service Instruction SI No. 205-IS26, dated May 14, 1984.

A failure in the weld of the reinforcement plate could cause an overload in the long arm of the MLG cross-member. Undetected cracks in the weld area of the longer cross-member reinforcement plate could lead to failure of the cross-member and collapse of the landing gear. Therefore, this could result in a hazardous condition during takeoff or landing, particularly on those airplane models equipped with wing tip fuel tanks.

The Registro Aeronautico Italiano (RAI), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Italy, has classified this Service Bulletin SB No. 205B48E and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Italian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of RAI combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

### Adoptum of the Amendment

The FAA has examined the available information related to the issuance of SB 205B48D and 205B48E and the mandatory classification of these Service Bulletins by The Registro Aeronautico Italiano (RAI).

Based on the foregoing, the FAA has determined that the condition addressed by SB 205B48D and 205B48E is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD superseding AD 83-07-23 is being issued which requires repetitive visual and dye penetrant inspections of the weld areas of the reinforcement plate of the long arm cross-member of the MLG, and if cracked, replacement or repair in accordance with SIAI-Marchetti Service Instructions SI No. 205-IS26.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules

Docket under the caption "**ADDRESSES**" at the location identified.

### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviatio Regulations (14 CFR Part 39.13) is amended by adding the following new Airworthiness Directive.

**SIAI-MARCHETTI:** Applies to Model S205, S208 and S208A Series (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To preclude the collapse of the main landing gear by the failure of the reinforcement plate welds of the long arm cross-member of the main landing gear (MLG) accomplish the following:

(a) Visually inspect the MLG cross-member long arm reinforcement plate weld for cracks in accordance with the "INSTRUCTION FOR THE VISUAL INSPECTION" section of SIAI-Marchetti Service Bulletin SB No. 205B48E, dated May 14, 1984, herein after referred to as the SB, in accordance with the following applicable inspection schedules:

(1) Within 100 hours time-in-service, after the effective date of this AD, and thereafter every 100 hours time-in-service, for MLG reinforcement plates with less than 500 hours time-in-service.

(2) Within 50 hours time-in-service, after the effective date of this AD, and thereafter every 50 hours time-in-service, for MLG reinforcement plates with more than 500 hours time-in-service and less than 1,000 hours time-in-service.

(3) Within 25 hours time-in-service, after the effective date of this AD, and therafter every 25 hours time-in-service, for MLG, reinforcement plates with more than 1,000 hours time-in-service.

(4) Prior to further flight, after each hard landing, regardless of time-in-service.

(b) Inspect, using a dye-penetrant method, the MLG cross-member long arm reinforcement plate weld in accordance with the "INSTRUCTIONS FOR THE DYE CHECK INSPECTION" section of the SB in accordance with the following applicable inspection schedules:

(1) Within the next 100 hours time-in-service on those MLG braces having 400 or more hours time-in-service, after the effective date of this AD, or prior to the accumulation of 500 hours time-in-service oni those MLG reinforcement plates with less than 400 hours time-in-service on the effective date of this AD and thereafter at intervals not to exceed 500 hours time-in-service, or

(2) Within the next 500 hours time-in-service, since accomplishing the last dye penetrant inspection in accordance with AD 83-07-23.

(c) If cracks are found during inspections required by either paragraph (a) or (b) of this AD, prior to further flight:

(1) If the cracks are within the limits specified in Figure 2 of the SB, repair in accordance with SIAI-Marchetti Service Instructions (SI) No. 205-1S26, 14 May 1984, is authorized.

(2) If the cracks are within the limits specified in Figure 2 of the SB, replace the MLG brace in accordance with the following table:

| Installed P/N | Replacement P/N |
|---|---|
| 205-9-012 Modified Per SB 205B36 | 205-9-012-07 |
| 205-9-013 Modified Per SB 205B36 | 205-9-013-08 |
| 205-9-012 | 205-9-012-07 |
| 205-9-013 | 205-9-013-08 |
| 205-9-012-05 | 205-9-012-07 |
| 205-9-013-05 | 205-9-013-08 |
| 205-9-502-01 | 205-9-502-03 |
| 205-9-502-02 | 205-9-502-04 |
| 205-9-012-07 | 205-9-012-07 |
| 205-9-013-08 | 205-9-013-08 |
| 205-9-502-03 | 205-9-502-03 |
| 205-9-502-04 | 205-9-502-04 |

(d) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(e) Operators who have not kept records of hours time-in-service of the MLG long arm cross-member must substitute airplane hours time-in-service in lieu thereof.

(f) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(g) An equivalent method of compliance with this AD may be used, if approved, by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

This AD supersedes Ad 83-07-23, Amendment 39-4627, dated April 11, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

This amendment becomes effective on August 23, 1984.

Isued in Kansas City, Missouri, on August 8, 1984.

**John E. Shaw,**

*Acting Director, Central Region.*

[FR Doc. 84-21990 Filed 8-17-84; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 84-ASW-25]**

## Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area; El Dorado, AR

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment will alter the transition area at El Dorado, AR. The intended effect of the amendment is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to Runway 04 at Goodwin Field. This amendment is necessary since a temporary VOR has been commissioned on Goodwin Field to provide service in place of the El Dorado Vortac, which is temporarily out of service.

**EFFECTIVE DATE:** October 25, 1984.

**FOR FURTHER INFORMATION CONTACT:** Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2630.

**SUPPLEMENTARY INFORMATION:**

### History

On June 22, 1984, a notice of proposed rulemaking was published in the **Federal Register** (49 FR 25639) stating that the Federal Aviation Administration proposed to alter the El Dorado, AR, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

### List of Subjects in 14 CFR Part 71

Control zones, Aviation safety, and Transition areas.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in FAA Order 7400.6, Compilation of Regulations, dated January 3, 1984, is amended, effective 0901 Gmt, October 25, 1984, by adding the following:

**El Dorado, AR [Revised]**

* * * and within 3 miles each side of a 215-degree bearing from the airport to 11 miles southwest.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348(a)); sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

**Note.**—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory

Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on August 7, 1984.

**F. E. Whitfield,**

*Acting Director, Southwest Region.*

[FR Doc. 84-21993 Filed 8-17-84; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 84-AWA-5]**

## Alteration of VOR Federal Airways Texas and Louisiana

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Correction to final rule.

**SUMMARY:** An error was discovered in the description of new VOR Federal Airway V-407 published in the **Federal Register** on July 3, 1984 (49 FR 27299) for the airway segment between Lufkin, TX, and Shreveport, LA. A subsequent error was discovered in the Correction to Final Rule published in the **Federal Register** on August 1, 1984 (49 FR 30688). This action corrects that error.

**EFFECTIVE DATE:** 0901 GMT, August 30, 1984.

**FOR FURTHER INFORMATION CONTACT:** Brent A. Fernald, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

**SUPPLEMENTARY INFORMATION:**

### History

**Federal Register** Document 84-17581 was published on July 3, 1984, which amended the descriptions of several VOR Federal Airways located in the vicinity of Houston, TX. A mistake was discovered in the description of new airway V-407 for the airway segment between Lufkin, TX, and Shreveport, LA. A subsequent mistake was also made in the Correction to Final Rule, **Federal Register** Document 84-20230, published on August 1, 1984, in which the radials were listed in magnetic rather than true bearings, and this action corrects that error.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

### Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 84-20230, as published in the **Federal Register** on August 1, 1984, (49 FR 30688) is corrected under the Adoption of the Correction by removing the words "Lufkin 032° and Shreveport, LA, 184° and substituting the words "Lufkin 040° and Shreveport, LA, 191°"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, D.C., on August 10, 1984.

**John W. Baier,**

*Acting Manager, Airspace-Rules and Aeronautical Information Division.*

[FR Doc. 84-21987 Filed 8-17-84; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 84-AWA-6]**

## Realignment of VOR Federal Airway V-483, New York

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule extends VOR Federal Airway V-483 from Carmel, NY, VORTAC to Deer Park, NY, VORTAC. This action reduces controller workload, enhances the arrival flow in the New York area and aids in flight planning.

**EFFECTIVE DATE:** 0901 GMT, October 25, 1984.

**FOR FURTHER INFORMATION CONTACT:** Kenneth W. Peppard, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

**SUPPLEMENTARY INFORMATION:**

### History

On May 15, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend VOR Federal Airway V-483 from Carmel, NY, VORTAC to Deer Park, NY, VORTAC (49 FR 20511). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

### The Rule

This amendment to Part 71 of the Federal Aviation Regulations extends VOR Federal Airway V-483 from Carmel, NY, VORTAC to Deer Park, NY, VORTAC.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airway.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

**V-483 [Amended]**

By deleting the words "From Carmel, NY;" and substituting the words "From Deer Park, NY, via Carmel, NY;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49

U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, D.C., on August 10, 1984.

**John W. Baier,**

*Acting Manager, Airspace—Rules and Aeronautical Information Division.*

[FR Doc. 84-21988 Filed 8-17-84; 8:45 am]

BILLING CODE 4910-13-M

## Federal Highway Administration

## 23 CFR Part 630

## Preconstruction Procedures; Project Agreement Form; Revision

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Amendment to final rule.

**SUMMARY:** This document revises FHWA regulations to substitute Form PR-2 (Rev. 1-84), Federal-Aid Project Agreement, for Form PR-2 (Rev. 10-75) of the same title. The revised, substituted form is necessary to incorporate statutory and regulatory requirements which have been issued since the form was last revised. The Form PR-2 is prepared and executed for most Federal-aid highway projects in accordance with 23 U.S.C. 110. Editorial and format clarifications are also being made to the form.

**EFFECTIVE DATE:** August 20, 1984.

**FOR FURTHER INFORMATION CONTACT:** Mr. James A. Carney, Office of Engineering, (202) 426-0450, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The Federal-aid project agreement (Form PR-2) sets forth and formalizes the contract terms that a State must agree to before receiving Federal-aid reimbursement for a highway project. The agreement sets forth the State's construction and maintenance responsibilities with respect to the highway project and provides for the State pro rata funding share. The regulations prescribing the form and procedures for the preparation and execution of the project agreement required by 23 U.S.C. 110(a) are contained in 23 CFR Part 630, Subpart C.

Since the Form PR-2 was last revised in October of 1975, there have been a number of statutory and regulatory revisions to the existing agreement provisions. This document incorporates those revisions so as to reflect those statutory and regulatory requirements that are currently in effect. A number of editorial and format changes are being made for the purpose of clarification and simplification. Other revisions being made to the form are as follows:

*Provision 16*—A provision entitled "Nondiscrimination" has been added in order to comply with Title VI of the 1964 Civil Rights Act.

*Provision 17*—A provision entitled "Minority Business Enterprises (MBE's)" has been added to reflect those minority business enterprise provisions required by 49 CFR Part 23 which is the Department of Transportation's regulation on MBE's.

*Provision 18*—This provision has been added to incorporate provisions regarding pedestrian and bicycle requirements mandated by § 126 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424, 96 Stat. 2116) and implemented by 23 CFR Part 652.

*Provision 19*—This provision has been added to highlight exceptions to the payback provisions located in provisions 3 and 4.

*Provision 20*—This new provisions has been added to require that approved environmental impact mitigation measures are adopted as required by 23 CFR 771.105(d).

In addition, minor editorial changes to the regulatory language of 23 CFR Part 630, Subpart C are being made which accurately reference the new form.

The FHWA has determined that this action does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies of the Department of Transportation. It is anticipated that the economic impact of this rulemaking will be minimal, since FHWA is merely incorporating into the project agreement form existing statutory and regulatory requirements. Accordingly, a full regulatory evaluation is not required. For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

This document is merely updating the required agreement provisions which have been the subject of prior rulemakings and have already taken effect. The updated project agreement form imposes no additional burdens on the States and construction industry. For these reasons, the FHWA finds good cause to make this regulation effective without prior notice and opportunity for comment and without a 30-day delay in effective date. Neither a general notice of proposed rulemaking nor a 30-day delay in effective date is required under the Administrative Procedures Act because the matters affected related to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2). Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful comments. Accordingly, this regulation is effective upon publication.

The information collection requirements contained in 23 CFR Part 630, Subpart C have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, and assigned the control number of 2125-0529, which expires August 31, 1985.

In consideration of the foregoing, and under the authority of 23 U.S.C. 110(a), 315 and 49 CFR 1.48(b), the FHWA hereby amends 23 CFR Part 630, Subpart C, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal program and activities apply to this program.)

### List of Subjects in 23 CFR Part 630

Grant programs—transportation, Highways and roads, Project agreement, Reporting and recordkeeping requirements.

Issued on: August 10, 1984.

**R.A. Barnhart,**

*Federal Highway Administrator, Federal Highway Administration.*

## PART 630—PRECONSTRUCTION PROCEDURES

The FHWA hereby amends 23 CFR Part 630, Subpart C as follows:

### Subpart C—Project Agreements [Amended]

#### § 630.304 [Amended]

1. In § 630.304, the first sentence of paragraph (c)(2) is amended by removing the words "Pages 2 and 3" and inserting in lieu thereof the words "Provisions 1 through 20".

2. In § 630.304, the first sentence of paragraph (c)(3) is amended by removing the words "page 4 of ".

3. In § 630.304, paragraphs (c)(6) and (7) are amended by removing the words "CLASS" each time it appears in the text and inserting in lieu thereof the word "'PHASE".

4. In § 630.304, at the end of the section add the following words:

[OMB Control Number 2125-0529]

5. In Part 630, Subpart C, Appendix A is amended by replacing Form PR-2 (Rev. 10-75) with Form PR-2 (Rev. 1-84) [see attached form].

BILLING CODE 4910-22-M

| TO BE COMPLETED BY FHWA | U.S. Department of Transportation<br>Federal Highway Administration<br>**FEDERAL-AID PROJECT AGREEMENT** | STATE<br>COUNTY<br>PROJECT NO. |
|---|---|---|

The State, through its Highway Agency, having complied, or hereby agreeing to comply, with the applicable terms and conditions set forth in (1) Title 23, U.S. Code, Highways, (2) the Regulations issued pursuant thereto and, (3) the policies and procedures promulgated by the Federal Highway Administrator relative to the above designated project, and the Federal Highway Administration having authorized certain work to proceed as evidenced by the date entered opposite the specific item of work, Federal funds are obligated for the project not to exceed the amount shown herein, the balance of the estimated total cost being an obligation of the State. Such obligation of Federal funds extends only to project costs incurred by the State after the Federal Highway Administration authorization to proceed with the project involving such costs.

PROJECT TERMINI

| PROJECT CLASSIFICATION OR PHASE OF WORK | EFFECTIVE DATE OF AUTHORIZATION | APPROXIMATE LENGTH *(Miles)* |
|---|---|---|
| HIGHWAY PLANNING AND RESEARCH (HP & R) | | |
| PRELIMINARY ENGINEERING | | |
| RIGHTS-OF-WAY | | |
| CONSTRUCTION | | |

OTHER *(Specify)*

| FUNDS | |
|---|---|
| ESTIMATED TOTAL COST OF PROJECT<br>$ | FEDERAL FUNDS<br>$ |

The State further stipulates that as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions set forth on the following pages.

_____
*(Official name of Highway Agency)*

By _____

_____
*(Title)*

By _____

_____
*(Title)*

By _____

_____
*(Title)*

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

By _____
*(Division Administrator)*

Date executed by Division Administrator _____

FORM PR-2 (REV. 1-84) PREVIOUS EDITIONS ARE OBSOLETE

## AGREEMENT PROVISIONS

**1. RESPONSIBILITY FOR WORK**

a. Except for projects constructed under Certification Acceptance procedures, the State highway agency will perform the work, or cause it to be performed, in compliance with the approved plans and specifications or project proposal which, by reference, are made a part hereof.

b. With regard to projects performed under Certification Acceptance procedures, the State highway agency will perform the work, or cause it to be performed, in accordance with the terms of its approved Certification, or exceptions thereto as may have been approved by the Federal Highway Administration.

**2. HIGHWAY PLANNING AND RESEARCH (HP&R) PROJECT.** The State highway agency will (a) conduct or cause to be conducted, under its direct control, engineering and economic investigations of projects for future construction, together with highway research necessary in connection therewith, pursuant to the work program approved by the Federal Highway Administration and (b) prepare reports suitable for publication of the result of such investigations and research, but no report will be published without the prior approval of the Federal Highway Administration.

**3. PROJECT FOR ACQUISITION OF RIGHTS-OF-WAY.** In the event that actual construction of a road on this right-of-way is not undertaken by the close of the tenth fiscal year following the fiscal year in which this agreement is executed, the State highway agency will repay to the Federal Highway Administration the sum or sums of Federal funds paid to the highway agency under the terms of this agreement.

**4. PRELIMINARY ENGINEERING PROJECTS.** In the event that right-of-way acquisition for, or actual construction of the road for which this preliminary engineering is undertaken is not started by the close of the fifth fiscal year following the fiscal year in which this agreement is executed, the State highway agency will repay to the Federal Highway Administration the sum or sums of Federal funds paid to the highway agency under the terms of this agreement.

**5. INTERSTATE SYSTEM PROJECT.**

a. The State highway agency will not add or permit to be added, without the prior approval of the Federal Highway Administration any points of access to, or exit from, the project in addition to those approved in the plans and specifications for the project.

b. The State highway agency will not permit automotive service stations, or other commercial establishments for serving motor vehicle users, to be constructed or located on the right-of-way of the interstate system.

c. The State highway agency will not after June 30, 1968, permit the construction of any portion of the Interstate Route on which this project is located, including spurs and loops, as a toll road without the written concurrence of the Secretary of Transportation or his officially designated representative. The term 'toll road' does not include toll bridges or toll tunnels.

**6. PROJECT FOR CONSTRUCTION IN ADVANCE OF APPORTIONMENT.**

a. This project authorized pursuant to 23 U.S.C. 115 as amended, will be subject to all procedures and requirements, and conform to the standards applicable to projects on the system on which located, financed with the aid of Federal funds.

b. No present or immediate obligation of Federal funds is created by this agreement, its purpose and intent being to provide that, upon application by the State highway agency, and approval thereof by the Federal Highway Administration, any Federal-aid funds of the class designated by the project number prefix, apportioned or allocated to the State under 23 U.S.C. 103(e)(4), 104, or 144 subsequent to the date of this agreement, may be used to reimburse the State for the Federal share of the cost of work done on the project.

**7. STAGE CONSTRUCTION.** The State highway agency agrees that all stages of construction necessary to provide the initially planned complete facility, within the limits of this project, will conform to at least the minimum values set by approved AASHTO design standards applicable to this class of highways, even though such additional work is financed without Federal-aid participation..

**8. BOND ISSUE PROJECT.** Construction, inspection and maintenance of the project will be accomplished in the same manner as for regular Federal-aid projects. No present or immediate obligation is created by this Agreement against Federal funds, its purpose and intent being to provide aid to the State, as authorized by 23 U.S.C. 122, for retiring maturities of the principal indebtedness of the bonds referred to below. When the State requests Federal reimbursement to aid in the retirement of such bonds, the request will be supported by the appropriate certification required by 23 CFR Part 140, Subpart F, and Volume 1, Chapter 4, Section 8 of the Federal-Aid Highway Program Manual, and payment of the authorized Federal share will be made from appropriate funds available. If in any year there is no obligated balance of any apportioned Federal funds available from which payments hereunder may be made, there will be no obligation on the part of the Federal Government on account of bond maturities for that year. Funds available to the highway agency for this project are the proceeds of bonds issued by the governmental unit indicated on the attached tabulation, pursuant to the authority and in the amounts by date of issue and beginning date of maturities set forth therein.

**9. SPECIAL HIGHWAY PLANNING AND RESEARCH PROJECT.** The State highway agency hereby authorizes the Federal Highway Administration to charge the State's pro rata share of costs incurred against funds apportioned to the State under 23 U.S.C. 307 (c), as amended. In the event a project is financed with both Federal-aid funds and State matching funds, the State agrees to advance to The Federal Highway Administration the State matching funds for its share of the estimated cost. For a National Pooled Fund study, the State hereby assigns its responsibility for the work to the Federal Highway Administration. For an Intra-Regional Cooperative Study, the State hereby assigns its responsibility for the work to the lead State for the study.

**10. PARKING REGULATION AND TRAFFIC CONTROL.** The State highway agency will not permit any changes to be made in the provisions for parking regulations and traffic control as contained in the agreement between the State and the local unit of Government referred to in the paragraph on "Additional Provisions," without the prior approval of the Federal Highway Administration, unless the State determines, and the Division Administrator concurs, that the local unit of Government has a functioning traffic engineering unit with the demonstrated ability to apply and maintain sound traffic operations and control.

## AGREEMENT PROVISIONS (Continued)

**11. SIGNING AND MARKING.** The State highway agency will not install, or permit to be installed, any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administrator pursuant to 23 U.S.C. 109(d) or the State's Certificate as applicable.

**12. MAINTENANCE.** The State highway agency will maintain, or by formal agreement with appropriate officials of a county or municipal government cause to be maintained, the project covered by this agreement.

**13. LIQUIDATED DAMAGES.** The State highway agency agrees that on Federal-aid highway construction projects not under Certification Acceptance the provisions of 23 CFR Part 630, Subpart C and Volume 6, Chapter 3, Section 1 of the Federal-Aid Highway Program Manual, as supplemented, relative to the basis of Federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

**14. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (APPLICABLE TO CONTRACTS AND SUBCONTRACTS WHICH EXCEED $100,000).**

a. The State highway agency stipulates that any facility to be utilized in performance under or to benefit from this agreement is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.

b. The State highway agency agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.

c. The State highway agency stipulates that as a condition of Federal aid pursuant to this agreement it shall notify the Federal Highway Administration of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this agreement is under consideration to be listed on the EPA List of Violating Facilities.

d. The State highway department agrees that it will include or cause to be included in any Federal-aid to highways agreement with a political subdivision of the State which exceeds $100,000 the criteria and requirements in these subparagraphs a. through d.

**15. EQUAL OPPORTUNITY.** The State highway agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance or guarantee, the following equal opportunity clause:

**"During the performance of this contract, the contractor agrees as follows:**

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State highway agency setting forth the provisions of this nondiscrimination clause.

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway agency advising the said labor union or workers' representative of the contractor's commitments under Section 202 of the Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law

g. The contractor will include the provisions of Section 202 of Executive Order 11246 of September 24, 1965, in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State highway agency or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance; *Provided, however,* that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Administration, the contractor may request the United States to enter in such litigation to protect the interests of the United States."

The State highway agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

**AGREEMENT PROVISIONS (Continued)**

The State highway agency also agrees:

(1) To assist and cooperate actively with the Federal Highway Administration and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor.

(2) To furnish the Federal Highway Administration and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Federal Highway Administration in the discharge of its primary responsibility for securing compliance.

(3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order.

(4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Federal Highway Administration or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

In addition, the State highway agency agrees that if it fails or refuses to comply with these undertakings, the Federal Highway Administration may take any or all of the following actions:

(a) Cancel, terminate, or suspend this agreement in whole or in part;

(b) Refrain from extending any further assistance to the State highway agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the State highway agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

**16. NONDISCRIMINATION.** The State highway agency (SHA) hereby agrees that it will comply with Title VI of the 1964 Civil Rights Act and related statutes and implementing regulations to the end that no person shall on the grounds of race, color, national origin, handicap, age, sex, or religion be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the project covered by this agreement and, further, the SHA agrees that:

a. It will insert the nondiscrimination notice required by the Standard Department of Transportation (DOT) Title VI Assurance (DOT Order 1050.2) in all solicitations for bids for work or material, and, in adapted form, in all proposals for negotiated agreements.

b. It will insert the clauses in Appendixes A, B, or C of DOT Order 1050.2, as appropriate, in all contracts, deeds transferring real property, structures, or improvements thereon or interest therein (as a covenant running with the land) and in future deeds, leases, permits, licenses, and similar agreements, related to this project, entered into by the SHA with other parties.

c. It will comply with, and cooperate with, FHWA in ensuring compliance with the terms of the standard Title VI Assurance, the act and related statutes, and implementing regulations.

**17. MINORITY BUSINESS ENTERPRISES (MBE's)**

a. The State highway agency hereby agrees to the following statements and agrees that these statements shall be included in all subsequent agreements between the recipient and any subrecipient and in all subsequent DOT-assisted contracts between recipients or subrecipients and any contractor:

(1) "**Policy.** It is the policy of the Department of Transportation that minority business enterprises (MBE's), as they are defined in 49 CFR Part 23 [for the purposes of 49 CFR Part 23, Subpart D, MBE's refer to disadvantaged business enterprises (DBE's); for the purposes of other subparts of Part 23, MBE's include women's business enterprises (WBE's)], shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, all applicable requirements of 49 CFR Part 23 apply to this agreement.

(2) "**Obligation.** The recipient or its contractor agrees to ensure that MBE's, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with the applicable section of 49 CFR Part 23 to ensure that MBE's have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, handicap, religion, age, or sex, as provided in Federal and State law, in the award and performance of DOT-assisted contracts."

b. If, as a condition of assistance, the recipient has submitted and the Department has approved an MBE affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as are noted in 49 CFR Part 23, Subparts D or E, which sanctions may include termination of the agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

**18. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.** No motorized vehicles shall be permitted on bikeways or walkways authorized under this project except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.

**19. MODIFIED OR TERMINATED HIGHWAY PROJECTS.** For certain projects described in 23 CFR Part 480 or as prescribed in other parts of Title 23, Code of Federal Regulations, the payback provisions found in these parts shall supersede provisions 3 and 4 of this agreement.

**20. ENVIRONMENTAL IMPACT MITIGATION FEATURES.** The State highway agency shall ensure that the project is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless the State requests and receives written Federal Highway Administration approval to modify or delete such mitigation features.

## ADDITIONAL PROVISIONS

[FR Doc. 21999 Filed 8-17-84; 8:45 am]
BILLING CODE 4910-22-C

**Coast Guard**

**33 CFR Part 117**

**[CGD3 83-067]**

## Drawbridge Operation Regulations; South River, New Jersey

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** At the request of Consolidated Rail Corporation (CONRAIL), the Coast Guard is changing the regulations governing the Conrail bridge across South River at South River, New Jersey. This change will require notice of opening from December 1 through the last day of February on weekdays, excluding federal holidays. The period that notice will be required has been shortened when compared with the Notice of Proposed Rulemaking for this action. This was done to respond to legitimate, mariner complaints and does not substantially affect the substance of the rule. Change in existing bridge regulations is made because of limited vessel passages from December 1 through the last day of February. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

**EFFECTIVE DATE:** These regulations become effective on September 19, 1984.

**FOR FURTHER INFORMATION CONTACT:** William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668-7994.

**SUPPLEMENTARY INFORMATION:** On March 15, 1984, the Coast Guard published a proposed rule (49 FR 9750) concerning this amendment. The Commander, Third Coast Guard District also published the proposal as a Public Notice dated March 30, 1984. In each notice interested persons were given until April 30, 1984 to submit comments.

On April 24, 1984, the Coast Guard published a final rule (49 FR 17450) that reorganized Coast Guard regulations for drawbridges (Part 117 of Title 33, Code of Federal Regulations) to consolidate common requirements and to organize bridge regulations into a more usable format. This final rule follows the revised numbering and format.

### Drafting Information

The drafters of these regulations are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

### Discussion of Comments

Six responses were received on the proposed rule to require notice for openings from November 1 through April 14. One person had no interest or objection, another urged denial of the proposal, while the four others stated a need to reduce the period that notice will be required. The four stated that winter boat storage begins after November 1, and that boating annually begins well before April 14 on South River. They also stated that the proposed regulations would not satisfy boating requirements made known at an informational meeting held prior to proposing these regulations. Most vessels using South River are recreational and moor at one of two pleasure-boat facilities on the waterway. Comments from both facilities indicated that reduction in the notice period should be made to require notice from December 1 through the last day of February.

The Coast Guard, after investigating comments, decided that the notice period stipulated in the proposed rule would not meet the reasonable needs of navigation. It was determined that the volume of boat traffic does not significantly decrease except from about December 1 through the last day of February each year.

One other commercial berthing facility is located on South River and it berths tugs and other commercial vessels. Bridge openings for vessels going to and coming from this facility are minimal when compared with overall openings.

### Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. Since very few if any vessels will be required to provide notice of opening, there will be no undue problems or inconveniences to navigation in general. Any vessel requiring an opening during the notice period need only give four hours notice. This singularly or cumulatively will have minimal impact on navigation. Very few commercial vessels use the waterway and these similarly will not be unduly impacted by the regulations. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

### List of Subjects in 33 CFR Part 117

Bridges.

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended by adding a new § 117.756 to read as follows:

**§ 117.756 South River.**

The draw of the CONRAIL bridge, mile 2.8 at South River shall open on weekdays (exclusive of holidays) from December 1 through the last day of February if at least four hours notice is given. From March 1 through November 30, and December 1 through the last day of February on weekends and holidays the draw shall be maintained open to navigation except for closure to accommodate passage of a train. The draw shall be opened as soon as possible at all times for passage of a public vessel of the United States.

(33 U.S.C. 499; 49 CFR 1.46(c)(2); 33 CFR 1.05-1(g)(3))

Dated: August 8, 1984.

**R. L. Johanson,**

*Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.*

[FR Doc. 84-22015 Filed 8-17-84; 8:45 am]

BILLING CODE 4910-14-M

**33 CFR Part 147**

**[CGD 11-84-01]**

## Establishment of Safety Zones Around Structures and Artificial Islands on the Outer Continental Shelf (OCS) and the Navigable Waters of the U.S.

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing four 500 meter safety zones around fixed structures on the Outer Continental Shelf [OCS] of Southern California and establishing regulations for navigating within such safety zones. These zones are needed to provide for the safety of life and property and resolve conflicts between oil and gas activities and vessel navigation.

**EFFECTIVE DATES:** These regulations are effective for Platform HERMOSA on May 1, 1985 at 12:01 a.m.; for Platform HIDALGO on May 1, 1986 at 12:01 a.m.; for Platform HARVEST on June 1, 1985 at 12:01 a.m.; and for Platform EUREKA on September 14, 1984 at 12:01 a.m.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Robert S. Varanko, U.S. Coast Guard, Project Manager, Commander, Eleventh Coast Guard District, 400 Oceangate Blvd., Long Beach, CA 90822 (213) 590–2301.

**SUPPLEMENTARY INFORMATION:** On April 27, 1984 the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (48 FR 18172). Interested persons were requested to submit comments and eight comments were received.

### Drafting Information

The drafters of these regulations are Lieutenant Commander Robert S. Varanko, U.S. Coast Guard, Project Officer, Eleventh Coast Guard District, and Lieutenant Catherine McNally, U.S. Coast Guard Reserve, Project Attorney, Eleventh Coast Guard District Legal Office.

### Discussion of Comment

All of the comments received in response to the notice of proposed rulemaking support the concept of these regulations.

*Comment:* There were several comments received concerning the exclusion of fishing vessels from the safety zone.

*Response:* These rules permit vessels less than 100 feet in length which are not engaged in towing, including fishing vessels, to enter the safety zone. The primary concern in promulgating these rules is the potential for damage created by a vessel during an allision with a structure. It is the Coast Guard's judgment that a vessel less than 100 feet in length is not likely to inflict appreciable damage on a structure but that a larger vessel, because of vessel mass, limited maneuverability and numerous other reasons, could do extensive damage. Further discussion of this issue can be found in 47 FR 11721 of 18 March 82 and 47 FR 39679 of 9 September 82.

*Comment:* Another commenter expressed concern over the density of platforms on the OCS and its impact on commercial fishing with a recommendation that the Coast Guard consider establishing a minimum distance between platforms, including safety zones.

*Response:* Platform siting is not within the jurisdiction of the U.S. Coast Guard but our input is included as part of the U.S. Army Corps of Engineers permitting process. Further, the current oil producing discoveries do not indicate they would support such a high density of platforms, particularly when the cost of a platform is considered.

*Comment:* A commenter also proposed establishing safety zones around all OCS structures including artificial islands and mobile offshore structures.

*Response:* This point was resolved in 47 FR 39679 of 9 Sep 82 and 47 FR 11720 of 18 March 82, which states, "This proposal has been limited to safety zones around structures since there is, at present, no perceived need for safety zones around artificial islands. Those artificial islands which exist in the Southern California area are generally located outside of established vessel traffic areas or designed such that a vessel could not be expected to damage them if it grounded on the island itself." Establishing a safety zone around all structures, including mobile, would impose an unnecessary burden on the regulatory process and reduce the significance and enforcement of these zones. Those mobile structures which, after case-by-case evaluation, pose a threat to navigation safety do have safety zones established around them. As a regulatory agency, the Coast Guard must guard against abusing this responsibility to the detriment of the general public. Therefore, only those structures which have demonstrated a need, as determined by the District Commander and/or the regulatory process, will have a safety zone established around it.

*Comment:* The commenter also referenced OCS structures in Alaska and other OCS areas.

*Reply:* As these areas were beyond the scope of these regulations and the Eleventh Coast Guard District authority, this comment has been forwarded to Coast Guard Headquarters for reply.

### Section 1109(a), 1110(a), 1111(a), 1112(a) Description

*Comment:* The commenter also requested the description paragraph be amended to, "The area within a line 500 meters from each point on the structure's outer edge or from its construction site.", because the platforms covered by these regulations have not been installed yet and would clarify the U.S. Coast Guard's authority to enforce safety zones during the initial installation phase.

*Response:* During the installation of a platform the Eleventh Coast Guard District Commander can establish a temporary safety zone around the construction site. This was done for Platform EUREKA. (See 49 25446 of 21 June 1984.) When the temporary safety zone is disestablished, the permanent safety zone will be established without further regulatory rulemaking.

For those platforms referred to in this rule, which have not yet been installed, the effective date of the safety zone is intended, as close as possible, to coincide with the commencement of installation/construction at the site. Although the final rule does not specifically address installation/construction, 33 CFR 147.1 does. Therefore, amending the wording is not considered necessary.

### Discussion of Other Changes

The Notice of Proposed Rulemaking contained an editing error. The correct latitude position for SS 147.1110 Platform HARVEST is 34–28–09.5N.; 49 FR 30078 published the correcton notice.

### Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulation policies and procedures (44 FR 11034, February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. There are no known commercial activities which would be impacted by these safety zones and any additional steaming time required by passing vessels to remain outside the 500 meter limit is offset by avoiding the costs of a casualty.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

### List of Subjects in 33 CFR Part 147.

Safety Zones, Marine Safety, Navigation (water)

## PART 147—[AMENDED]

### Final Regulations

In consideration of the foregoing, Part 147 of Title 33, Code of Federal Regulations, is amended as follows:

1. By revising the authority citation to read as follows:

**Authority:** Sec. 203 Pub. L. 95–372, 92 Stat. 636; [43 U.S.C. 1331(d)(1)]; sec. 6(b)(1) 80 Stat. 938 [49 U.S.C. 1655(b)(1)] 49 CFR 1–46(b).

2. By adding §§ 147.1109 through 147.1112 to read as follows:

### § 147.1109 Platform HERMOSA Safety Zone.

(a) *Description:* The area within a line

500 meters from each point on the structure's outer edge. The position of the center of the structure is 34–27–19 N, 120–38–47 W.

(b) *Regulations:* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel, (2) a vessel under 100 feet in length overall not engaged in towing or (3) a vessel authorized by the Commander, Eleventh Coast Guard District.

**§ 147.1110 Platform HARVEST Safety Zone.**

(a) *Description:* The area within a line 500 meters from each point on the structure's outer edge. The position of the center of the structure is 34–28–09.5N, 120–40–46.1W.

(b) *Regulations:* No vessel may enter or remain in this safety zone except for the following: (1) An attending vessel, (2) a vessel under 100 feet in length overall not engaged in towing or (3) a vessel authorized by the Commander, Eleventh Coast Guard District.

**§ 147.1111 Platform EUREKA Safety Zone.**

(a) *Description:* The area within a line 500 meters from each point on the structure's outer edge. The position of the center of the structure is 33–33–50N, 118–07–00W.

(b) *Regulations:* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel, (2) a vessel under 100 feet in length overall not engaged in towing or (3) a vessel authorized by the Commander, Eleventh Coast Guard District.

**§ 147.1112 Platform HIDALGO Safety Zone.**

(a) *Description:* The area within a line 500 meters from each point on the structure's outer edge. The position of the center of the structure is 34–29–42N, 120–42–08W.

(b) *Regulations:* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel, (2) a vessel under 100 feet in length overall not engaged in towing or (3) a vessel authorized by the Commander, Eleventh Coast Guard District.

**Authority:** Sec. 203 Pub. L. 95–372, 92 Stat. 636; [43 U.S.C. 1331(d)(1)]; sec. 6(b)(1) 80 Stat. 938 [49 U.S.C. 1655(b)(1)] 49 CFR 1–46 (b).

Dated: August 9, 1984.

**F. P. Schubert,**

*Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.*

[FR Doc. 84–22017 Filed 8–17–84; 8:45 am]

BILLING CODE 4910–14–M

## 33 CFR Part 165

**[COTP Miami, FL Regulation CGD7–84–32]**

## Safety Zone Regulations; Atlantic Ocean, 400 Yards East of Molasses Reef Light Approximate Position 25–02.35N, 080–22.20W

**AGENCY:** Coast Guard, DOT.

**ACTION:** Emergency rule.

**SUMMARY:** The Coast Guard is establishing a safety zone around the M/V *Wellwood* in position Latitude 25–02.35N, longitude 080–22.20W, Atlantic Ocean, East Coast of Florida. The zone is needed to protect divers, swimmers, pleasure boaters, salvage personnel, and salvage vessels working around the grounded M/V *Wellwood.*

**EFFECTIVE DATES:** This regulation becomes effective at 7:42 pm EDT 04 August 1984. It terminates on 30 August 1984, or upon completion of salvage operations aboard the M/V *Wellwood.*

**FOR FURTHER INFORMATION CONTACT:** LCDR R.W. Harbert, Marine Safety Office, 51 SW. First Avenue Miami, Florida, 33130 TEL: (305) 350–5691.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential hazards to pleasure boaters, divers, swimmers, M/V *Wellwood,* salvage vessels and crew. Contrary to the public interest since immediate action is needed to prevent potential hazards to pleasure boaters, divers, swimmers, M/V *Wellwood,* salvage vessels and crew.

### Drafting Information:

The drafters of the regulation are Chief Warrant Officer R. Perkins project officer for the Captain of the Port, and LCDR. K.E. GRAY, project attorney, Seventh Coast Guard District Legal Office.

### Discussion of Regulation

The event requiring this regulation occured on 04 August 1984 when the M/V *Wellwood,* a cargo vessel of 121.85 meters in length, ran aground in position latitude 25–02.35N, longitude 080–22.20W. The M/V *Wellwood* is around within the Key Largo Coral Reef Marine Sanctuary, a protected area often frequented by pleasure boaters, divers and swimmers. The widespread publicity of the vessel grounding has attracted an influx of curious boaters, swimmers and divers to the grounding location, creating a safety hazard. In order to effectively and safely conduct salvage operations, a safety zone is established prohibiting entry within a 300 yard radius of the grounded M/Vv *Wellwood,* unless authorized by the Captain of the Port, Miami, Florida.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

## PART 165—[AMENDED]

### Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T 732 to read as follows:

**§ 165.T 732 Safety Zone: M/V WELLWOOD in position latitude 25–02.35N, longitude 080–22.20W, approximately 400 yards east of Molasses Reef Light, adjacent to Tavernier, Florida.**

(a) *Location:* The following area is a Safety Zone: The waters around position latitude 25–02.35N, longitude 080–22.20W extending for a clear radius of 300 yards in any direction.

(b) *Regulation:* In accordance with the general regulation in § 165.23 of this Part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; CFR 1.46; 33 CFR 165.3)

Dated: August 4, 1984.

**R.N. Roussel,**

*Commander, U.S. Coast Guard, Captain of the Port, Miami, Florida.*

[FR Doc. 84–22016 Filed 8–17–84; 8:45 am]

BILLING CODE 4910–14–M

## LIBRARY OF CONGRESS

## Copyright Office

## 37 CFR Part 201

**[Docket RM 83–3B]**

## Compulsory License for Cable Systems

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final regulation.

**SUMMARY:** The Copyright Office of the Library of Congress is issuing a final regulation, amending 37 CFR 201.17. These regulations implement portions of section 111 of the Copyright Act of 1976, title 17 of the United States Code. That section prescribes conditions under which cable systems may obtain a

compulsory license to retransmit copyrighted works by filing periodic Statements of Account and by paying copyright royalties. The purpose of this final regulation is to extend from 60 to 120 days the period following the normal filing deadlines during which the Copyright Office will refund overpayments of royalties at the request of cable systems, with respect to the 1983 Supplemental DSE Schedules and the Form CS/SA-3 for the accounting period ending June 30, 1984.

**EFFECTIVE DATE:** September 19, 1984.

**FOR FURTHER INFORMATION CONTACT:** Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (202) 287-8380.

**SUPPLEMENTARY INFORMATION:** Section 111(c) of the Copyright Act of 1976, title 17 of the United States Code, establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. The compulsory license is subject to various conditions, including the requirement that cable systems file Statements of Account and deposit statutory royalties with the Copyright Office.

The Copyright Office is in the process of implementing a rate adjustment established by the Copyright Royalty Tribunal in accordance with 17 U.S.C. 801(b)(2) (B) and (C). The Office recently published interim [49 FR 14944; April 16, 1984] and final regulations [49 FR 26722; June 29, 1984] notifying cable systems of revised forms and giving guidance regarding payment of royalties under the adjusted rates.

The National Cable Television Association (NCTA) recently petitioned the Office, requesting a time extension from the late August deadlines until September 28, 1984 for the filing of the 1983 Supplemental DSE Schedules and Form CS/SA-3 for the semi-annual accounting period ending June 30, 1984. The request was limited to filings by multiple system operators that have three or more cable systems that are located in a major or smaller television market.

In justification of the request, NCTA asserts that the forms require substantial analysis and paperwork, that systems must conduct an extensive investigation into the history of their signal carriage, and on occasion, the signal carriage of other existing or former systems in the same community, in order to determine the basis for distant signal carriage under the Copyright Act and the rules of the Federal Communications Commission.

Although the forms for the first time require cable systems to state the basis of their distant signal carriage, it seems reasonable to believe that most systems are aware of the basis of carriage at the time carriage is made. Moreover, Copyright Office regulations, while not encouraging late filings, provide no penalty for them,[1] and the Office will accept amended filings at any time, except that refunds of overpayments at the request of cable systems are subject to a 60-day time limitation.

The Office has concluded that there is insufficient justification to amend the regulations on an emergency basis without an opportunity for public comment, and therefore has denied NCTA's request, as presented.

On the other hand, the Office has also concluded that the concerns expressed by the NCTA justify a technical amendment to a "housekeeping" regulation governing the period during which the Office will refund overpayments of royalties at the request of cable systems. Accordingly, the period is extended from 60 days to 120 days. This extension should allow cable systems ample time to review the forms after timely filing in late August 1984 and, if corrections are appropriate, the cable systems will be able to amend the forms and receive refunds, as due, up to the period of 120 days following the normal filing deadlines.

This amendment applies only to the Form CS/SA-3 for the accounting period ending June 30, 1984, and to the 1983 Supplemental DSE Schedules.

The amendment will benefit all cable systems affected by the 1982 rate adjustment, and it will not harm copyright owners, since any loss of interest income falls on the cable systems who make incorrect filings. It should be understood that the present 60 days period was established for the administrative convenience of the Copyright Office in the interest of facilitating transfers of royalties to the Copyright Royalty Tribunal. The deadline was not established for the benefit of copyright owners. Since the technical change is minor, affects the Office itself primarily, and is beneficial to the public, the amendment is issued in final form without public comment. Accordingly, the Office is issuing in final form a technical amendment to 37 CFR 201.17(j).

**List of Subjects in 37 CFR Part 201**

Cable television, Copyright.

[1] The Copyright Act may provide a penalty, but the Copyright Office defers to a court of competent jurisdiction for assessment of the penalty, if any.

**Final Regulations**

**PART 201 [AMENDED]**

In consideration of the foregoing, Part 201 of 37 CFR Chapter II is amended in the manner set forth below.

Paragraph (j) of § 201.17 is amended by adding the following paragraph (j)(5):

**§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.**

* * * * *

(j) * * *

* * * * *

(5) In the case of Forms CS/SA-3 for the accounting period ending June 30, 1984 and of the Supplemental DSE Schedules for 1983, a period of 120 days shall apply in lieu of the 60 day period specified by this paragraph (j)(3)(i).

(17 U.S.C. 111; 702)

Dated: August 9, 1984.

**David Ladd,**

*Register of Copyrights.*

Approved by:

**Daniel J. Boorstin,**

*The Librarian of Congress.*

[FR Doc. 84-21981 Filed 8-17-84; 8:45 am]

BILLING CODE 1410-03-M

## POSTAL SERVICE

### 39 CFR Part 10

### International Express Mail Service to Barbados

**AGENCY:** Postal Service.

**ACTION:** Final action on International Express Mail Service to Barbados.

**SUMMARY:** Pursuant to an agreement with the postal administration of Barbados the Postal Service intends to begin International Express Mail Service with Barbados at postage rates indicated in the table below. Service is scheduled to begin on October 1, 1984.

**EFFECTIVE DATE:** October 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Leon W. Perlinn, [202] 245-4414.

**SUPPLEMENTARY INFORMATION:** By a notice published in the **Federal Register** on July 13, 1984 (49 FR 28571), the Postal Service announced that it was proposing to begin International Express Mail Service to Barbados. Comments were invited on published rate tables, which are proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which are to become effective on the date service begins. No comments were received.

**List of Subjects in 39 CFR Part 10.**

Accordingly, the Postal Service states that it intends to begin International Express Mail Service with Barbados on October 1, 1984 at the rates indicated in the table below.

Foreign relations, Postal service.

BARBADOS: EXPRESS MAIL INTERNATIONAL SERVICE

| Custom designed service:[1] [2] Up to and including | | On demand service:[2] Up to and including | |
|---|---|---|---|
| Pounds | Rate | Pounds | Rate |
| 1 | $27.00 | 1 | $19.00 |
| 2 | 29.90 | 2 | 21.90 |
| 3 | 32.80 | 3 | 24.80 |
| 4 | 35.70 | 4 | 27.70 |
| 5 | 38.60 | 5 | 30.60 |
| 6 | 41.50 | 6 | 33.50 |
| 7 | 44.40 | 7 | 36.40 |
| 8 | 47.30 | 8 | 39.30 |
| 9 | 50.20 | 9 | 42.20 |
| 10 | 53.10 | 10 | 45.10 |
| 11 | 56.00 | 11 | 48.00 |
| 12 | 58.90 | 12 | 50.90 |
| 13 | 61.80 | 13 | 53.80 |
| 14 | 64.70 | 14 | 56.70 |
| 15 | 67.60 | 15 | 59.60 |
| 16 | 70.50 | 16 | 62.50 |
| 17 | 73.40 | 17 | 65.40 |
| 18 | 76.30 | 18 | 68.30 |
| 19 | 79.20 | 19 | 71.20 |
| 20 | 82.10 | 20 | 74.10 |
| 21 | 85.00 | 21 | 77.00 |
| 22 | 87.90 | 22 | 79.90 |
| 23 | 90.80 | 23 | 82.80 |
| 24 | 93.70 | 24 | 85.70 |
| 25 | 96.60 | 25 | 88.60 |
| 26 | 99.50 | 26 | 91.50 |
| 27 | 102.40 | 27 | 94.40 |
| 28 | 105.30 | 28 | 97.30 |
| 29 | 108.20 | 29 | 100.20 |
| 30 | 111.10 | 30 | 103.10 |
| 31 | 114.00 | 31 | 106.00 |
| 32 | 116.90 | 32 | 108.90 |
| 33 | 119.80 | 33 | 111.80 |
| 34 | 122.70 | 34 | 114.70 |
| 35 | 125.60 | 35 | 117.60 |
| 36 | 128.50 | 36 | 120.50 |
| 37 | 131.40 | 37 | 123.40 |
| 38 | 134.30 | 38 | 126.30 |
| 39 | 137.20 | 39 | 129.20 |
| 40 | 140.10 | 40 | 132.10 |
| 41 | 143.00 | 41 | 135.00 |
| 42 | 145.90 | 42 | 137.90 |
| 43 | 148.80 | 43 | 140.80 |
| 44 | 151.70 | 44 | 143.70 |

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

(39 U.S.C. 401, 404, 407)

**W. Allen Sanders,**

*Associate General Counsel, Office of General Law and Administration.*

[FR Doc. 84-22018 Filed 8-17-84; 8:45 am]

BILLING CODE 7710-12-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[OAR-FRL-2643-3]

### Air Programs; Designation of Areas for Air Quality Planning Purposes; Correction

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This document corrects an error in a chart listing the designations of air quality for total suspended particulates (TSP) in areas of Vermont. The chart was published February 19, 1980 (45 FR 10782) and is located at 40 CFR 81.346.

**EFFECTIVE DATE:** February 12, 1980.

**FOR FURTHER INFORMATION CONTACT:** Marcia L. Spink, FTS 223-4868, (617) 223-4868.

**SUPPLEMENTARY INFORMATION:** On February 19, 1980 EPA approved secondary TSP attainment plans for Essex Town (includes Essex Junction); Burlington City; South Burlington City; Winooski City; and Barre City. The remainder of the State of Vermont was redesignated to "Better than national standards," more commonly referred to as attainment, for TSP.

A chart was published at 40 CFR 81.346 listing the information provided above. However, the chart incorrectly listed the remainder of the State of Vermont as "Cannot be classified."

### PART 81—[AMENDED]

Accordingly, 40 CFR 81.346 is amended by revising the TSP portion to read as follows:

**§ 81.346 Vermont**

VERMONT—TSP

| Designated area | Does not meet primary standards | Does not meet secondary standards | Cannot be classified | Better than national standards |
|---|---|---|---|---|
| Champlain Valley Air Management Area: Consisting of townships and cities listed below: Essex Town (includes Essex Junction): Burlington City; South Burlington City; Winooski City. | | X | | |
| Central Vermont Air Management area: consisting of the city listed below: Barre City. | | X | | |
| Remainder of the State | | | | X |

* * * * *

**List of Subjects in 40 CFR Part 81**

Air pollution control, National parks, Wilderness areas.

**Authority:** Secs. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Dated: July 13, 1984.

**Paul G. Keough,**

*Acting Regional Administrator, Region I.*

[FR Doc. 84-22023 Filed 8-17-84; 8:45 am]

BILLING CODE 6560-50-M

### 40 CFR Part 271

[OSWER-9-FRL-2656-7]

### Hazardous Waste Management Program; Extension of Application Deadline for Interim Authorization

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Extension of application submittal and interim authorization period.

**SUMMARY:** On Wednesday, July 6, 1983, EPA granted to the States of Arizona, California, and Nevada, and the Territory of Guam, an extension of the July 16, 1983 deadline for submittal of a Phase II Interim Authorization application under the Resource Conservation and Recovery Act (48 FR 31027, July 6, 1983). That Notice extended the deadline for submitting complete applications for final authorization for the States of Arizona, California, Nevada, and the Territory of Guam. None of these States has been able to complete its submittal to EPA by the extended deadline. Because the

States have made a good faith effort to complete the applications, and expect to submit them to EPA shortly, EPA is granting a further extension to allow these four States to submit their complete applications after the aforementioned deadlines.

**EFFECTIVE DATE:** August 20, 1984.

**FOR FURTHER INFORMATION CONTACT:** Chuck Flippo, Toxics & Waste Programs Branch, Environmental Protection Agency Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone (415) 874-8128.

**SUPPLEMENTARY INFORMATION:** 40 CFR 271.122(c)(4) [47 FR 32377, July 26, 1982] requires States with interim authorization to have applied for all components of Phase II by July 26, 1983. 40 CFR 271.137(a) [47 FR 32378, July 26, 1982] mandates that interim authorization of State program will terminate on July 26, 1983, unless the State has submitted an application for all phases and components of interim authorization by that date. However, the regulations provide Regional Administrators with the authority to extend the July 26 deadlines for submittal of applications and termination of the authorized programs. If EPA terminates a State authorization, EPA administers and enforces the Federal program in that State.

Arizona received Phase I interim authorization on August 11, 1982. Subsequently, the State chose not to apply for any of the components of the Phase II program, but rather to apply for all remaining elements of the program in its final authorization application because it lacked adequate statutory authority to receive the full Phase II interim authorization at that time. The lengthy process of developing new hazardous waste regulations in accordance with a new State hazardous waste law enacted in 1983, has delayed completion of its authorization application. The State plans to submit its complete application in August 1984.

California received Phase I interim authorization on June 4, 1981, and Phase II A interim authorization (excluding surface impoundments) on January 11, 1983. The State chose to adopt all Phase II regulations in one process, and to apply for final authorization in lieu of seeking additional components of Phase II interim authorization. Substantial revisions to its hazardous waste and ground water protection regulations and other program elements have delayed completion of California's authorization application. The State's application is expected to be submitted by September 1984.

The Territory of Guam received Phase I interim authorization on May 16, 1983. Guam chose to apply for final authorization in lieu of Phase II interim authorization. The Territory is adopting both statutory and regulatory amendments in order to be able to submit its final authorization application. Guam expects to submit its complete application in December 1984.

Nevada received interim authorization for Phases I, II A and II B on July 19, 1983. The State chose to apply for final authorization rather than apply for Phase II C interim authorization. Revisions to the State's regulations, needed to meet the requirements for final authorization, were completed in June 1984. The State plans to submit a complete authorization application in July 1984.

### Decision

Considering the above circumstances, immediate reversion of the Phase I programs due to failure to meet the previous deadlines was not in the best interest of the States, this Agency, the regulated community, or the citizens of Arizona, California, Guam, and Nevada. I have found good cause to extend the application deadlines for Arizona, California, Guam, and Nevada, until January 26, 1985, the date on which the statutory time period allowed for interim authorization ends.

### Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3, Executive Order 12291.

### List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water Pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

**Authority:** This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(B).

Dated: August 8, 1984.

**John Wise,**

*Acting Regional Administrator.*

[FR Doc. 84-22021 Filed 8-17-84; 8:45 am]

BILLING CODE 6560-50-M

## 40 CFR Part 761

[OPTS-62032A; TSH-FRL-2587-1]

## Toxic Substances Control Act; Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Exclusions, Exemptions, and Use Authorizations

*Correction*

In FR Doc. 84-17903 beginning on page 28192 in the issue of Tuesday, July 10, 1984, make the following correction:

### § 761.185 [Corrected]

On page 28192, second column, § 761.185(c)(2)(ii)(E), "data" should read "date".

BILLING CODE 1505-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

### 42 CFR Part 124

## Medical Facility Construction and Modernization

**AGENCY:** Public Health Service, HHS.

**ACTION:** Final rule.

**SUMMARY:** Sections 603(b) and 1620(2) of the Public Health Service Act require the Secretary to prescribe by regulation general standards of construction, modernization, and equipment for projects assisted under Title VI and Title XVI, respectively, of the Act. Since the Title VI and Title XVI grant and loan authority have expired, there is no need to retain the standards in regulations. Projects for which applications were approved or grants awarded under Titles VI and XVI, but for which full project reimbursement has not yet been made, will be subject to continuing compliance with the "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" as incorporated by reference in 42 CFR Parts 53 and 124 at the time of initial approval. This Rule amends Part 124 of Title 42, CFR, by removing provisions relating to minimum standards of construction, modernization, and equipment of hospitals and other medical facilities. Similar provisions in Part 53 were deleted earlier.

**EFFECTIVE DATE:** August 20, 1984.

**FOR FURTHER INFORMATION CONTACT:** Mr. Grady Smith, Division of Facilities Conversion and Utilization, Bureau of Health Maintenance Organizations and

Resources Development, Health Resources and Services Administration, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-5410.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of December 2, 1982, the Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, proposed to delete §§ 124.200-203 of Subpart C and § 124.4(d) of Subpart A of Part 124 of Title 42, CFR.

This Final Rule removes from Part 124 requirements relating to minimum standards of construction, modernization, and equipment of hospitals and other medical facilities, and in particular the incorporation by reference of the document, "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (DHHS Publication No. (HRA)78-14012). That document is incorporated by reference in § 124.201. The provisions to be deleted were included in Part 124 in compliance with the requirement of section 1620(2) of the Public Health Service Act that the Secretary prescribe by regulation general standards of construction, modernization, and equipment for projects assisted under Title XVI of the Act. Since the Title XVI grant and loan authority expired at the end of 1982, there is no need to retain the standards in regulations. Moreover, removal of the incorporation by reference is consistent with efforts to decrease imposition of unnecessary requirements upon the public.

Similar provisions that related to assistance provided under Title VI of the Public Health Service Act, and which also incorporated by reference the "Minimum Requirements" document, were for similar reasons removed from Part 53 of Title 42 on August 6, 1979 (44 FR 45946). Section 124.4(d), which is also to be deleted by this rule, refers to one of those former Part 53 provisions and is, therefore, obsolete.

It is emphasized that projects with respect to which applications were approved or grants awarded under Titles VI and XVI, but for which full project reimbursement has not yet been made, will be subject to continuing compliance with the "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" as incorporated by reference in Parts 53 and 124 of Title 42 at the time of the initial approval.

The Public Health Service (PHS) has published an updated edition entitled "Guidelines for Construction and Equipment of Hospital and Medical Facilities." This document is being issued as technical assistance guidelines which States and others have the option to adopt. Copies of the "Guidelines" are available from the Division of Facilities Conversion and Utilization, Bureau of Health Maintenance Organizations and Resources Development, Health Resources and Services Administration, Room 11A-19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. A group of expert public and private representatives of the health industry has guided the development of this updated edition. A public meeting was held in Washington, D.C., in September 1982, to obtain comments from other concerned individuals and organizations. These comments have been considered in further refinement of the document. The PHS does not plan to republish this document in the future.

Public or private organizations interested in the continued availability of such guidance are strongly encouraged to assume responsibility for publication of the document in the future. To assist in this effort, the PHS will, on a continuing basis, make available its files, as well as the expertise of its staff.

In the preamble to the proposed rule, the Department indicated that it would continue to revise and publish these standards as technical guidance material. After further review of this issue, however, we have concluded that it is not an appropriate role for the Department as the Department has not regulated hospital construction for the past few years. The standards should thus no longer be a part of Departmental regulations, and their further publication should be undertaken by other public or private organizations.

**Responses to Public Comment**

Interested persons were invited to submit comments on the proposed regulation on or before January 31, 1983. Twenty-one comments were received. The comments and the Department's response to the comments are set forth below.

Five major areas of concern were expressed in the comments received: (1) Impact on State functions, (2) impact on public input, (3) national uniformity, (4) impact on quality of construction, health care delivery, and construction and maintenance costs, and (5) impact on the review and processing of applications for Department of Housing and Urban Development and Department of Agriculture loans. The following is a synthesis of comments and the Department's responses to each.

*(1) Concern: Impact on State Functions*

Eight responders noted that the "Minimum Requirements" are widely referenced in State codes for licensure of health facilities by architects and engineers for uniformity. Some felt that State functions in the areas of licensing and inspection of health facilities would be disrupted by the change.

These responders believed that reference to Federal regulations adds credibility and legitimacy to State regulations and enhances State enforcement of codes. The responders explained that the proposed change would weaken States' ability to enforce requirements in the construction and modernization of health facilities. Moreover, elimination of the regulations would place upon States the responsibility of developing and updating standards. States have limited resources to undertake the research required to develop standards and continually modify them as the state-of-the-art changes. One State requested that implementation be deferred until States have time to modify the standards in their statutes, codes, rules, and ordinances.

*Response*

The Department is aware that the regulations have been recognized and used in various ways by State and local governments. As stated in the NPRM, the use of the "Minimum Requirements" by governmental and private entities is not dependent on their regulatory status. It is, therefore, the Department's view that such standards may be adopted by States and local governments even if they are issued as technical guidance.

*(2) Concern: Impact on Public Input*

Six commenters believed that public input is necessary to assure accuracy, fairness, and appropriateness of standards. Guidelines can be changed with no prior notification and, therefore, do not assure public input from affected parties. Five commenters suggested that if the document were removed from regulation, there should be provisions for continuing to update the document and provide the public with an opportunity to comment. Another comment centered around the difficulties trade associations would have if they attempted to comment on 50 different sets of requirements to be developed by 50 States.

*Response*

The Department's action is not intended to eliminate the open process which has been used to date in the development and modification of the "Minimum Requirements." The final rule encourages other organizations to assume responsibility for the publication of the document, including its development with broad public input. A revised edition has been published concurrently with the issuance of this final rule.

*(3) Concern: National Uniformity*

Eight commenters stated that the "Minimum Requirements" have provided a uniform base for health facilities design which is well accepted and recognized as the sole national standard. Elimination from regulation would result in the plethora of potentially conflicting requirements across the United States. This would present difficulties for parties who must work across State boundaries, such as designers and reviewers of loan applications. The possibility of 50 different sets of regulations would complicate the review process. One commenter foresaw increased litigation resulting from omissions or errors made in the review process. Moreover, two associations pointed out that State authorities could change the requirements which may not only result in inconsistent standards but also place unrealistic demands upon manufacturers.

*Response*

The "Minimum Requirements" document has served as a basis upon which many individual States develop their own standards. However, national consistency does not now exist with regard to hospital construction standards. Although a number of States adopt the minimum standards, many merely use the Federal standards as a basis for development of their own standards, while others do not make use of the standards at all. Finally, the adoption of such standards by a State is not precluded regardless of whether the standards are incorporated by reference in the CFR.

*(4) Concern: Impact on the Quality of Construction, Delivery of Health Care, and Construction and Maintenance Costs*

Five commenters were concerned about lowering the quality of construction, safety and health care services delivered. Building standards, it was noted, can be lowered if each State is able to develop its own standards. One of these respondents argued that without the Federal presence the hospitals would be controlled by designers and constructors. Substandard facilities would be built to hold down initial construction costs. One commenter stated that the "Minimum Requirements" has served as an important safeguard for nursing home residents.

Two industry associations commented that uniformity of standards has allowed them to minimize production costs which resulted in lower product costs. Unrealistic demands by various regional, State, and local entities could affect costs. One respondent commented that given a free hand, State and local governments would adopt more stringent codes which would increase construction costs. On the other hand, other commenters argued that substandard facilities would be built to hold down initial costs, but long-term maintenance and renovation costs would be increased. A capital financial consultant agreed with this last point.

*Response*

Removal from regulation would not preclude the continued use or adoption of the "Guidelines for Construction and Equipment of Hospital and Medical Facilities" by States. The minimum standards do not currently have a statutory purpose since the Title XVI medical facilities construction grant and loan authority expired at the end of FY 1982. Since their use by facilities other than recipients of Title XVI loans at this time is strictly voluntary, deregulation would have minimal impact on the industry.

*(5) Concern: Impact on the Review and Processing of Applications for the Department of Housing and Urban Development and the Department of Agriculture*

Four commenters stated that if the regulation were eliminated, the reviews of these applications would not be possible. The capital financial consultant felt that elimination of national standards would jeopardize hospitals' ability to finance projects under section 242 of the National Housing Act (12 U.S.C. 1715b, 1715z) because of lack of assurance of adequate construction standards. The difficulty in reviewing project applications using various standards was addressed in concern #3.

*Response*

Loan applications under section 242 of the National Housing Act would be reviewed using the "Guidelines for Construction and Equipment for Hospital and Medical Facilities" in accordance with the Memorandum of Agreement (MOA). These criteria, however, need not be included in HHS regulations in order to be applied to loans under section 242.

**Impact Analysis**

**Executive Order 12291**

Implementation of this final rule will incur *no* costs or benefits to the Public. Since the Title VI and XVI grant and loan authority have expired, references in regulation to the "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" are now obsolete. Therefore, the Secretary has determined that this regulation is not a major rule under Executive Order 12291. Further, because this rule does not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required.

**List of Subjects in 42 CFR Part 124**

Grant programs—Health, Health facilities, Low income persons, Minimum requirements for construction.

Accordingly, 42 CFR Part 124, Subpart A, § 124.4(d) and Subpart C, § 124.200–203 are removed as set forth below:

**Authority:** Secs. 215, 1602, 1625, Public Health Service Act (42 U.S.C. 216, 3000–1, 3005) unless otherwise noted.

Dated: March 2, 1984.

**Edward N. Brandt, Jr.,**

*Assistant Secretary for Health.*

Approved: July 19, 1984.

**Margaret M. Heckler,**

*Secretary.*

## PART 124—MEDICAL FACILITY CONSTRUCTION AND MODERNIZATION

### Subpart A—Amended

**§ 124.4 [Amended]**

1. Remove and reserve paragraph (d) of § 124.4 in its entirety.

**§§ 124.200—124.203 [Removed]**

### Subpart C—[Reserved]

2. Remove and reserve Subpart C (§§ 124.200—124.203) in its entirety. The reference in the Table of Contents to Part 124, Subpart C is changed accordingly.

[FR Doc. 84-22002 Filed 8-17-84; 8:45 am]

BILLING CODE 4160-16-M

## OFFICE OF PERSONNEL MANAGEMENT

### 45 CFR Part 801

### Voting Rights Program; Appendix A; North Carolina

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule with request for comments.

**SUMMARY:** The Office of Personnel Management is issuing final rules to establish the location of a new office for filing of applications or complaints under the Voting Rights Act of 1965, as amended. The Attorney General has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution.

**DATES:** Effective September 19, 1984. Comments must be received on or before September 19, 1984.

**ADDRESS:** Send or deliver comments to: Ronald E. Brooks, Coordinator, Voting Rights Program, U.S. Office of Personnel Management, 1900 E Street, NW., Room 5532, Washington, D.C. 20415.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald E. Brooks, Coordinator, Voting Rights Program, 202-632-5544.

**SUPPLEMENTARY INFORMATION:** The Attorney General has designated Edgecombe County, North Carolina, as an additional examination point coming under the provisions of the Voting Rights Act of 1965, as amended. He has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, the U.S. Office of Personnel Management will appoint Federal examiners to review the qualifications of applicants to be registered to vote and Federal observers to observe local elections.

The Director finds that good cause exists for setting the comment period on this final rulemaking at 30 days. This will allow Federal examiners to immediately register voters and Federal observers to observe elections under the authority of the Voting Rights Act of 1965, as amended.

#### E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

#### Regulatory Flexibility Act

I certify that this regulation will not have significant economic impact on a substantial number of small entities because its purpose is the addition of one new location to the list of counties in the regulations concerning OPM's responsibilities under the Voting Rights Act.

#### List of Subjects in 45 CFR Part 801

Administrative practice and procedures, Voting rights.

U.S. Office of Personnel Management.

**Donald J. Devine,**

*Director.*

Accordingly, the Office of Personnel Management amends 45 CFR 801.202, Appendix A, by alphabetically adding Edgecombe County, North Carolina, to read as follows:

### PART 801—VOTING RIGHTS PROGRAM

**§ 801.202 Times and places for filing and forms of application.**

* * * * *

Appendix A

* * * * *

*North Carolina*

*County; Place for filing; Beginning date.*

* * * * *

Edgecombe; Tarboro—Room B3, U.S. Post Office, 525 Main Street, Tarboro, North Carolina; May 4, 1984.

* * * * *

(5 U.S.C. 1103; secs. 7, 9, 79 Stat. 440, 411 (42 U.S.C. 1973c, 1973g))

[FR Doc. 84-21994 Filed 8-17-84; 8:45 am]

BILLING CODE 6325-01-M

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### 45 CFR Part 801

### Voting Rights Program; Appendix A; Texas

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This notice identifies the location of a new office for filing of applications or complaints under the Voting Rights Act of 1965, as amended. The Attorney General has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution.

**EFFECTIVE DATE:** April 5, 1984.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Brooks, Coordinator, Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415, 202-632-5544.

**SUPPLEMENTARY INFORMATION:** The Attorney General has designated Dallas County, Texas, as an additional examination point coming under the provisions of the Voting Rights Act of 1965, as amended. He has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, the U.S. Office of Personnel Management will appoint Federal examiners to review the qualifications of applicants to be registered to vote and Federal observers to observe local elections.

Pursuant to section 553(b)(3)(B) of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because of OPM's legal responsibilities under 42 U.S.C. 1973e(a) and other parts of the Voting Rights Act of 1965, as amended, which require OPM to publish counties certified by the U.S. Attorney General and locations within these counties where citizens can be federally listed and become eligible to vote, and where Federal observers can be sent to observe local elections.

Pursuant to section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to allow Federal examiners to immediately register voters and Federal observers to observe elections under the authority of the Voting Rights Act of 1965, as amended.

#### E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

#### Regulatory Flexibility Act

I certify that this regulation will not have significant economic impact on a substantial number of small entities because its purpose is the addition of one new location to the list of counties in the regulations concerning OPM's responsibilities under the Voting Rights Act.

#### List of Subjects in 45 CFR Part 801

Administrative practice and procedures, Voting rights.

U.S. Office of Personnel Management.

**Donald, J. Devine,**

*Director.*

### PART 801—VOTING RIGHTS PROGRAM

Accordingly, the Office of Personnel Management amends § 801.202 of 45 CFR Part 801, Appendix A, by

alphabetically adding Dallas County, Texas, to read as follows:

**§ 801.202 Times and places for filing and forms of application.**

* * * * *

**Appendix A**

* * * * *

*Texas*

County; Place for filing; Beginning date.

* * * * *

Dallas; Dallas—OPM, Room 6B3, 1100 Commerce Street, Dallas, Texas, April 4, 1984.

* * * * *

(5 U.S.C. 1103; secs. 7, 9, 79 Stat. 440, 411 (42 U.S.C. 1973c, 1973g))

[FR Doc. 84-21995 Filed 8-17-84; 8:45 am]

BILLING CODE 6325-01-M

# Proposed Rules

Federal Register
Vol. 49, No. 162
Monday, August 20, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

[Airspace Docket No. 84-ASO-16]

### Proposed Alteration of Transition Area, Montgomery, AL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** This notice proposes to increase the size of the Montgomery, Alabama, transition area to accommodate Instrument Flight Rule (IFR) operations at Autauga County Airport. This action will lower the base of controlled airspace, in the vicinity of the airport, from 1,200 to 700 feet above the surface. An instrument approach procedure, predicated on the Montgomery VORTAC, is being developed to serve the airport and the additional controlled airspace is required for protection of IFR aeronautical activities.

**DATES:** Comments must be received on or before: September 26, 1984.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

**FOR FURTHER INFORMATION CONTACT:** Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, ecomomic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ———." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO)-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

#### The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will alter the Montgomery, Alabama, transition area. This action will provide additional controlled airspace for aircraft executing a new instrument approach procedure to Autauga County Airport. If the proposed alteration of the transition area is found acceptable, the operating status of the airport will be changed from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6 dated January 3, 1984.

#### List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend the Montgomery, Alabama, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

**Montgomery, AL—[Amended]**

By adding the following words to the end of the present text: . . .:

"within a 7-mile radius of Autauga County Airport (Lat. 32°26'12" N., Long. 86°30'36" W.), within 4 miles each side of Montgomery VORTAC 323° radial, extending from the 7-mile radius area to 28 miles northwest of the VORTAC. . . ."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983))

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule, when promulgated, will not have a significant ecomomic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on August 7, 1984.

**George R. LaCaille,**

*Acting Director, Southern Region.*

[FR Doc. 84-21992 Filed 8-17-84; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Part 121

[Docket No. 22818; Ref. Notice No. 84-10]

## Advanced Simulation Plan

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Withdrawal of Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This notice withdraws Notice 84-10, published in the **Federal Register** on July 24, 1984 (49 FR 29898), which proposed a 3-year extension for Phase IIA interim approval for each Phase I simulator listed in any Part 121 operator's approved Interim Simulator Upgrade Plan. Notice 84-10 elicited detailed comments that raise complex issues which require a lengthy and detailed analysis. Based on the extensive time that would be required to review and address those issues, Notice 84-10 is being withdrawn at this time.

**FOR FURTHER INFORMATION CONTACT:** Steve Stieneker, Project Development Branch (AFO-240), Air Transportation Division (AFO-200), Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8096.

**SUPPLEMENTARY INFORMATION:**

### Background

On April 2, 1982, the Air Transport Association (ATA) petitioned for rulemaking to amend Part 121, Appendix H, Advanced Simulation Plan (ASP). A summary of that petition was published in the **Federal Register** on May 27, 1982 (47 FR 23174). ATA contends that after careful study and review of industry experience, certain changes should be made to Appendix H to eliminate what it views as financially burdensome and unproductive requirements. One of its proposals is to eliminate the 3½-year time limit for Phase IIA training permitted by Appendix H and make it permanent.

The FAA responded to the ATA petition by issuing Notice 84-10. That notice proposed that the Interim Simulator Upgrade Plan for Part 121 operators be extended for 3 years to allow the concerned parties adequate time to fully assess the results of simulator studies currently underway.

### Reasons for the Withdrawal

A review of comments on Notice 84-10 indicates that final rulemaking action to extend Phase IIA is not advisable. While ATA and Republic Airlines find merit in the proposed extension, United Airlines, Northwest Orient Airlines, and the Air Line Pilots Association express opinions that do not support the proposal. The reasons for the opposition are varied. Some commenters state they responded to the requirements of advanced simulation in good faith by expending considerable amounts of money and manpower resources. All of them question the intent of those air carriers that have not similarly responded. Some commenters state that the ASP was developed jointly by industry and the FAA. The goals, objectives, and requirements of the plan are specific, and the plan is permissive. Phase IIA is an interim plan, and provides immediate economic benefits while simulator upgrade plans are being implemented. If the dollars saved were not used to upgrade the affected simulators according to the approved plan, the integrity of purpose in advanced simulation has been compromised. Some commenters express belief that the proposal is contrary to the FAA's original position and intent, and they offer a number of direct quotations from FAA publications as evidence. Several commenters question the severe inequities in the administration of advanced simulation if the proposal were adopted.

Not all the questions raised by the commenters opposing the proposal are included in this summary. The varied nature and complexity of the issues raised require a lengthy and detailed analysis of the ASP in general, and the Phase IIA Interim Simulator Upgrade Plan for Part 121 operators in particular. Resolution of these issues would require an extreme amount of time and resources and may or may not result in rulemaking action being taken. Accordingly, the FAA is withdrawing the proposal at this time.

### The Decision and Withdrawal

Accordingly, I conclude that the FAA should not proceed with rulemaking based on the proposal contained in the Notice of Rulemaking now pending. Therefore, Notice No. 84-10 (49 FR 29898; July 24, 1984) is withdrawn.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 2, 1983); 14 CFR 11.45)

Issued in Washington, D.C., on August 15, 1984.

**Kenneth S. Hunt,**

*Director of Flight Operations.*

[FR Doc. 84-22014 Filed 8-17-84; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Parts 544, 546 and 555

[Docket No. 83N-0378]

## Antibiotic Drugs; Deletion of Safety Test

*Correction*

In FR Doc. 84-19845 beginning on page 30325 in the issue of Monday, July 30, 1984, make the following corrections:

1. On page 30329, in the middle column, in Part 544, in the action designated "a.", the ninth line, "544.373(a)(1)" should read "544.373a(a)(1)".

2. On the same page, in the third column, in the action designated "i,", the last line should read "(vi), (vii), and (viii) of this chapter."

3. In the same column, in Part 546, in the action designated "b.", the fourth and fifth lines, "(*a*)(*b*)" should read "(*a*) and (*b*)" in the three places that it occurs.

4. On page 30330, in the first column, in Part 555, in the action designated "a.", the fifth line, "555.210a(a)(4)(i)(*b*)" should read "555.210(a)(4)(i)(*b*)".

BILLING CODE 1505.01-M

## POSTAL SERVICE

## 39 CFR Part 10

## Proposed International Express Mail Service to Norway

**AGENCY:** Postal Service.

**ACTION:** Proposed Rule.

**SUMMARY:** Pursuant to an agreement with the postal administration of Norway, the Postal Service proposes to begin International Express Mail Service with Norway at postage rates indicated in the tables below. The proposed service is scheduled to begin on October 23, 1984.

**DATE:** Comments must be received on or before September 19, 1984.

**FOR FURTHER INFORMATION CONTACT:** Leon W. Perlinn (202) 245-4414.

**ADDRESS:** Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260-5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260-5350.

**SUPPLEMENTARY INFORMATION:** The International Mail Manual is incorporated by reference in the **Federal Register**, 39 CFR 10.1. Additions to the manual concerning the proposed new services, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410 [a]), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed International Express Mail Service to Norway at the rates indicated in the table below.

**List of Subjects in 39 CFR Part 10**

Postal service, Foreign relations.

NORWAY—INTERNATIONAL EXPRESS MAIL

| Custom designed service[1,2] | | On demand service[2] | |
|---|---|---|---|
| Up to and including | | Up to and including | |
| Pounds | Rate | Pounds | Rate |
| 1 | $28.00 | 1 | $20.00 |
| 2 | 31.70 | 2 | 23.70 |
| 3 | 35.40 | 3 | 27.40 |
| 4 | 39.10 | 4 | 31.10 |
| 5 | 42.80 | 5 | 34.80 |
| 6 | 46.50 | 6 | 38.50 |
| 7 | 50.20 | 7 | 42.20 |
| 8 | 53.90 | 8 | 45.90 |
| 9 | 57.60 | 9 | 49.60 |
| 10 | 61.30 | 10 | 53.30 |
| 11 | 65.00 | 11 | 57.00 |
| 12 | 68.70 | 12 | 60.70 |
| 13 | 72.40 | 13 | 64.40 |
| 14 | 76.10 | 14 | 68.10 |
| 15 | 79.80 | 15 | 71.80 |
| 16 | 83.50 | 16 | 75.50 |
| 17 | 87.20 | 17 | 79.20 |
| 18 | 90.90 | 18 | 82.90 |
| 19 | 94.60 | 19 | 86.60 |
| 20 | 98.30 | 20 | 90.30 |
| 21 | 102.00 | 21 | 94.00 |
| 22 | 105.70 | 22 | 97.70 |
| 23 | 109.40 | 23 | 101.40 |
| 24 | 113.10 | 24 | 105.10 |
| 25 | 116.80 | 25 | 108.80 |
| 26 | 120.50 | 26 | 112.50 |
| 27 | 124.20 | 27 | 116.20 |
| 28 | 127.90 | 28 | 119.90 |
| 29 | 131.60 | 29 | 123.60 |
| 30 | 135.30 | 30 | 127.30 |
| 31 | 139.00 | 31 | 131.00 |
| 32 | 142.70 | 32 | 134.70 |
| 33 | 146.40 | 33 | 138.40 |
| 34 | 150.10 | 34 | 142.10 |
| 35 | 153.80 | 35 | 145.80 |
| 36 | 157.50 | 36 | 149.50 |
| 37 | 161.20 | 37 | 153.20 |
| 38 | 164.90 | 38 | 156.90 |
| 39 | 168.60 | 39 | 160.60 |

NORWAY—INTERNATIONAL EXPRESS MAIL—Continued

| Custom designed service[1,2] | | On demand service[2] | |
|---|---|---|---|
| Up to and including | | Up to and including | |
| Pounds | Rate | Pounds | Rate |
| 40 | 172.30 | 40 | 164.30 |
| 41 | 176.00 | 41 | 168.00 |
| 42 | 179.70 | 42 | 171.70 |
| 43 | 183.40 | 43 | 175.40 |
| 44 | 187.10 | 44 | 179.10 |

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

(39 U.S.C. 401, 404, 407)

**W. Allen Sanders,**

*Associate General Counsel, Office of General Law and Administration.*

[FR Doc. 84-22019 Filed 8-17-84; 8:45 am]

BILLING CODE 7710-12-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 421

[OW-FRL-2656-6]

### Nonferrous Metals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed Rule; Extension of Comment Period.

**SUMMARY:** On June 27, 1984, EPA proposed to amend the nonferrous metals manufacturing regulation under the Clean Water Act to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from particular nonferrous metals manufacturing facilities (sometimes referred to as phase II) (49 FR 26352). EPA is extending the period for comment on the proposed regulation from August 27, 1984 to October 2, 1984.

**DATES:** Comments on the proposed amendment to the nonferrous metals manufacturing category regulation (49 FR 26352) must be submitted to EPA by October 2, 1984.

**ADDRESSES:** Send comments to Mr. James R. Berlow, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: Docket Clerk, Proposed Nonferrous Metals Phase II Manufacturing. The supporting information and all comments on this proposal are available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213. The comments will be added to the record as they are received. The EPA Information Regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Ernst P. Hall (202) 382-7126.

**SUPPLEMENTARY INFORMATION:** On June 27, 1984, EPA proposed a regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from particular nonferrous metals manufacturing facilities (49 FR 26352). The June 27, 1984 notice stated that all comments on the proposal were to be submitted on or before August 27, 1984.

The Agency has been asked by several members of the nonferrous metals manufacturing industry to extend the comment period to allow additional time to submit comments on the proposed regulation. As industry pointed out, the technical development documents used by the Agency to support the regulation were not available to the public until August 3, 1984, thus delaying their review of the technical basis for the proposed nonferrous metals manufacturing regulation. For this reason, the Agency has determined that it is necessary to extend the comment period until October 2, 1984.

The Agency will review, consider and give equal consideration to all comments submitted by October 2, 1984.

**List of Subjects in 40 CFR Part 421**

Water pollution control, Metals, Waste treatment and disposal.

Dated: August 13, 1984.

**Henry L. Longest II,**

*Acting Assistant Administrator for Water.*

[FR Doc. 84-22022 Filed 8-17-84; 8:45 am]

BILLING CODE 6560-50-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1039

[Ex Parte No. 346; Sub-No. 19]

### Boxcar Car Hire and Car Service; Change in Comment Date

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Advance Notice of Proposed Rulemaking; Change in comment date.

**SUMMARY:** The Commission is revising the due dates for submission of comments and replies announced in the advance notice of proposed rulemaking published at 49 FR 27333, July 3, 1984. That notice instituted a proceeding to consider alternatives to the Commission's boxcar decision as it pertains to car hire and car service rules for boxcars. The comment due date has been advanced in order to expedite compilation of the record.

**DATES:** Comments are due by October 4, 1984. Replies are due by November 5, 1984.

**ADDRESSES:** An original and 15 copies of comments and replies referring to Ex Parte No. 346 (Sub-No. 19) should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of comments and replies must also be served on all parties of record in Ex Parte No. 346 (Sub-No. 8).

**FOR FURTHER INFORMATION CONTACT:** Louis Gitomer, (202) 275-7245.

Authority: 49 U.S.C. 10321(a), 10505, and 11122.

Decided: August 13, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

*Secretary.*

[FR Doc. 84-21982 Filed 8-17-84; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Parts 32 and 33

## Proposed Addition of Fifteen National Wildlife Refuges to the Lists of Open Areas for Migratory Game Bird Hunting, Upland Game Hunting, Big Game Hunting, and/or Sport Fishing

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Fish and Wildlife Service proposes to add fifteen refuges to the lists of open areas for migratory bird hunting, upland game hunting, big game hunting, and/or sport fishing. The Secretary believes that this action would be in accordance with the provisions of all applicable laws, would be compatible with the principles of sound wildlife management, and would otherwise be in the public interest. The Secretary further believes that such uses would be compatible with the major purposes for which each refuge was established. The hunting of migratory game birds, upland game and big game, and/or sport fishing would provide additional public recreational opportunities.

**DATE:** Comments must be received on or before August 30, 1984.

**ADDRESSES:** Comments may be addressed to Associate Director—Wildlife Resources, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** James Gillett, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240; Telephone (202) 343-4311.

**SUPPLEMENTARY INFORMATION:** National wildlife refuges are officially closed to hunting and sport fishing until opened by rulemaking. The Secretary may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the major purposes for which refuge areas were established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action also must be in accordance with provisions of all laws applicable to the areas, must be compatible with the principles of sound wildlife management, and must otherwise be in the public interest. Some of these proposed hunting programs require refuge specific hunting regulations. These regulations are proposed in this rulemaking also. The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is therefore the purpose of this proposed rulemaking to seek public input regarding opening the refuges cited below to the hunting of migratory game birds, upland game or big game, and/or sport fishing, and regarding the refuge specific hunting regulations proposed for certain hunting programs. Accordingly, interested persons may submit written comment, suggestions, or objections regarding this proposal. All relevant comments will be considered by the Department prior to issuance of a final rule.

### Request for Comments

It is the policy of the Fish and Wildlife Service, whenever practicable, to afford the public an opportunity to participate in the Service's rulemaking process. Normally the Service gives the public 30 or more days to comment on proposed rules, but the Service requests that the public respond to this proposed rule on or before 10 days after the date of this publication. The Service has shortened the comment period because of the need to issue a final rule prior to the beginning of the rapidly approaching hunting seasons. If the Service determines that the proposed hunting programs are in the public interest, it would not be practicable to have a longer comment period.

### Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966 as amended (16 U.S.C. 668dd) and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of National Wildlife Refuges. Specifically, section 4(d)(1)(A) of the Refuge System Administration Act authorizes the Secretary to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations and access when he determines that such uses are compatible with the major purposes for which such areas were established. (The compatibility determination for each refuge is discussed below.) In addition, the Act provides that the taking of migratory game birds will be permitted on no more than 40 percent of any area that has been designated as an inviolate sanctuary for migratory game birds. Of the refuges that would be opened to the hunting of migratory birds by this rule, Chincoteague, and Hatchie National Wildlife Refuges were originally established as inviolate sanctuaries for migratory birds. This proposed rule considers the opening of less than 40 percent of the above mentioned refuges to migratory game birds and therefore conforms to this provision of the Act.

The Refuge Recreation Act authorizes the Secretary of the Interior to administer refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires that the Secretary shall determine that funds be made available for the development, operation, and maintenance of these permitted forms of recreation, prior to initiating such uses of refuge areas.

In accordance with the Refuge Administration Act and the Refuge Recreation Act, the Secretary of the Interior believes that the proposed openings for hunting and fishing would be compatible with the primary purposes for which each of the refuges

was established. Hunting and fishing programs would be consistent with State and Federal (migratory game bird) regulatory frameworks which are developed specifically to ensure conservation of fish and wildlife populations. A discussion of the compatibility of the hunting and fishing programs with the purposes for which each refuge was established and the availability of funding for each program follows:

Alligator River NWR was established for the conservation of fish and wildlife by donation under the provisions of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742f). Conservation of fish and wildlife involves the perpetuation of fish and wildlife habitat and populations. Migratory game bird, upland and big game hunting and sport fishing at Alligator River NWR would result in only minor temporary disurbances to refuge habitat and limited harvest of wildlife. Implementation of these hunting and fishing programs would be an integral part of the management of refuge fish and wildlife populations. These programs would utilize a renewable resource while maintaining balanced fish and wildlife populations and their habitats. Therefore, the opening of Alligator River NWR to migratory game bird, upland game and big game hunting and sport fishing would be compatible with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. Funds are available for the administration of these hunting and fishing programs.

Chincoteague NWR was established by the Migratory Bird Conservation Commission for the conservation of migratory birds. Migratory game bird hunting would be limited to the recently acquired area known as Wildcat Marsh. Wildcat Marsh comprises 492 acres of the 9,931-acre refuge, or less than five percent of the total refuge area, and complies with the 40% provision of the Refuge Administration Act. Hunting would be from established blinds and hunter numbers would be restricted. Travel to blinds would be over established pathways and would result in only minimal disturbance to refuge habitat. Migratory waterfowl hunting regulations would regulate seasons, bag limits and the number of hunters to ensure the conservation of waterfowl populations, including black duck populations. Moreover, waterfowl hunting would be structured to have a positive effect on refuge habitat by dispersing snow geese which would avoid excessive use of the marsh vegetation by snow geese that has caused a thinning of the Spartina grasses called "eat out" areas. Under these conditions, hunting would be consistent with the conservation of migratory birds, including the perpetuation of migratory bird habitat and populations. Therefore, the opening of Chincoteague NWR to migratory game bird hunting would be compatible with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of this hunting program would be less than $8,000. Within the annual refuge budget of approximately $701,000, the necessary funds would be available for the administration of the migratory game bird hunting program. Therefore, the opening of Chincoteague NWR to migratory game bird hunting would be in compliance with the Refuge Reaction Act.

Cross Creeks NWR was established under Pub. L. 83-780, Senate Document #81 and Public Land Order 4560, for the purpose of transferring refuge lands to the Service as mitigation for the loss of waterfowl habitat at Kentucky Woodlands NWR. Upland and big game hunting would occur in habitat not normally used by migratory waterfowl. Migratory game bird hunting would be space and time zoned to ensure that only minimal disturbances would occur to the overall migratory bird population. Waterfowl use might decrease slightly in the part of the refuge open to migratory game bird hunting, but this would only involve temporary daytime disturbances. Under these conditions, the proposed hunting programs would be consistent with the conservation of migratory birds, including the perpetuation of migratory bird habitat and populations. Therefore, the opening of Cross Creeks NWR to migratory game bird, upland game and big game hunting would be compatible with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of these hunting programs would be less than $20,000. Within the annual refuge budget of approximately $230,000, the necessary funds would be available for the administration of the migratory game bird, upland game and big game hunting programs. Therefore, the opening of Cross Creeks NWR to these hunting programs would be in compliance with the Refuge Reaction Act.

Fox River NWR was acquired with Land and Water Conservation Funds in 1979 to preserve and enhance the wetland and adjacent upland habitat found along the Fox River; to preserve and enhance wildlife populations through habitat preservation, restoration and management; to protect habitats of endangered and threatened species; and for purposes of research, outdoor recreation, environmental education and other public uses. Big game hunting would be used to manage the refuge deer population which has increased, since the establishment of the refuge, to the point where it is having an adverse impact on refuge habitat and crops on neighboring private lands. Reducing the deer population and maintaining it at optimum levels would ensure the preservation and enhancement of all refuge wildlife populations and habitat. In addition, opening the refuge to big game hunting would make the area available to an important form of outdoor recreation. Therefore, the opening of Fox River NWR to big game hunting would be compatible with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of these hunting programs would be less than $4,000. Within the annual refuge complex budget of approximately $328,000, the necessary funds would be available for the administration of the big game hunting program. Therefore, the opening of Fox River NWR to big game hunting would be in compliance with the Refuge Recreation Act.

Hatchie NWR was established by the Migratory Bird Conservation Commission for the conservation of migratory birds. Migratory game bird hunting would be permitted on approximately 350 acres of the 4,662-acre refuge, or less than 10% of the total refuge area. This hunting area would be outside the area that is intensively managed for migrating and wintering waterfowl. Hunting would be limited to half-day hunts on three days of the week during the State season, so that waterfowl would be assured opportunities to utilize the hunting area without being disturbed. Waterfowl use might decrease slightly in the part of the refuge open to hunting, but this would involve only temporary daytime disturbances. Under these conditions, hunting would be consistent with the conservation of migratory birds, including the perpetuation of migratory bird habitat and populations. Therefore, the opening of Hatchie NWR to migratory game bird hunting program would be compatible with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of the hunting program would be

less than $1,500. Within the annual refuge budget of approximately $220,000, the necessary funds would be available for the administration of the migratory game bird hunting program. Therefore, the opening of Hatchie NWR to migratory game bird hunting would be in compliance with the Refuge Recreation Act.

Lacassine NWR was established by Exective Order 7780 as a refuge and breeding ground for migratory birds and other wildlife. Like other national wildlife refuges established as refuge and breeding grounds, Lacassine NWR was created primarily to safeguard wildlife populations and their habitats and is not intended to be a "safe haven" for individual animals. Thus, the use of hunting as a refuge management tool is in keeping with refuge purposes to conserve wildlife populations and habitat. Big game hunting on Lacassine NWR would occur primarily on spoil banks and levees throughout the refuge with little disturbance to this habitat. Big game hunting would occur in October prior to the use of the refuge by large numbers of migratory waterfowl and there would be no significant disturbance to the waterfowl. Therefore, the opening of Lacassine NWR to big game hunting would be compatible with the purpose for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of the hunting program would be less than $8,000. Within the annual refuge budget of approximately $268,000, the necessary funds would be available for the administration of the big game hunting program. Therefore, the opening of Lacassine NWR to big game hunting would be in compliance with the Refuge Recreation Act.

Necedah NWR was established by Executive Order 8065 as a refuge and breeding ground for migratory birds and other wildlife. Since national wildlife refuges are established primarily to safeguard wildlife populations and their habitats and are not intended to be "safe havens" for individual animals, the use of hunting as a refuge management tool is in keeping with refuge purposes to conserve wildlife populations and habitat. Migratory game bird hunting on Necedah NWR would be permitted on approximately 4,000 acres of the refuge that has recently come under Service management. The Service would implement a permit system to limit the number of hunters using the area at any one time. Under this system, only minor temporary disturbances to other refuge wildlife and their habitat wold occur. Therefore, the opening of Necedah NWR to migratory game bird hunting would be compatible with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of the migratory game bird hunting program would be less than $10,000. Within the annual refuge budget approximately $233,000, the necessary funds would be available for the administration of the migratory game bird hunting programs. Therefore, the opening of Necedah NWR to migratory game bird hunting would be in compliance with the Refuge Recreation Act.

Optima NWR was established through a cooperative agreement with the Department of the Army for the development, conservation and management of wildlife resources. Migratory game bird hunting for mourning dove and upland game hunting for quail, rabbit and pheasant would be managed as an intergral part of a comprehensive refuge wildlife management program. The individual hunting programs are consistent with State and Federal regulatory frameworks which are developed specifically to ensure the conservation of fish and wildlife populations. Therefore, the opening of Optima NWR to migratory game bird upland game hunting would be compatible with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of these hunting programs would be less than $8,000. Within the annual refuge budget of approximately $230,000, the necessary funds would be available for the administration of migratory game bird and upland game hunting programs. Therefore, the opening of Optima NWR to migratory game bird and upland game hunting would be in compliance with the Refuge Recreation Act.

Ouray NWR was established by the Migratory Bird Conservation Commission for the conservation of migratory birds. Sport fishing would occur primarily during July through September when waterfowl use of the Green River is minimal and waterfowl production would not be affected. Similarly, sport fishing would have no effect on bald eagle use of the river, which occurs during a period from December through April. Therefore, the opening of Ouray NWR to sport fishing would be compatible with the purposes for which the refuge was established would be in compliance with the Refuge Administration Act. The annual cost of this sport fishing program would be less than $4,000. Within the annual refuge budget of approximately $203,000, the necessary funds would be available for the administration of the sport fishing program. Therefore, the opening of Ouray NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Pea Island NWR was established by Executive Order 7864 as a refuge and breeding ground for migratory birds and other wildlife. Since national wildlife refuges are established primarily to safeguard wildlife populations and their habitats, and are not intended to be "safe havens" for individual animals, the use of hunting as a management tool is in keeping with refuge purposes to conserve wildlife populations and habitat. Upland game hunting on Pea Island NWR would result in temporary disturbances to vegetation, but this impact would be minimized by limiting the number of hunters and the frequency of hunts. Hunting would also be limited to high marsh and upland areas where the impact on waterfowl use would be minimal. Therefore, the opening of Pea Island NWR to upland game hunting would be compatible with purposes for which the refuge was establised and would be compliance with Refuge Administration Act. The annual cost of the hunting program would be less than $3,000. Within the annual refuge budget of approximately $166,000, the necessary funds would be available for the administration of the upland game hunting program. Therefore, the opening of Pea Island NWR to upland game hunting would be in compliance with the Refuge Recreation Act.

Reelfoot NWR was established by a cooperative agreement with the State of Tennessee for the benefit of wintering waterfowl and other wildlife species. Big game hunting would be used to manage the refuge deer population which, if it continues growing at its present rate, will have an adverse impact on refuge habitat and agricultural crops. Proper management of the refuge deer population will benefit diverse refuge habitat and other wildlife species. Big game hunting would occur in November prior to the period of intensive migratory watefowl use and would be zoned so that only minor temporary disturbances to waterfowl and their habitat would occur. Therefore, the opening of Reelfoot NWR to big game hunting would be compatible with the purpose for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of the big game hunting program would be less than $5,000. Within the annual refuge budget of approximately $273,000, the necessary funds would be available

for the administration of the big game hunting program. Therefore, the opening of Reelfoot NWR to big game hunting would be incompliance with the Refuge Recreation Act.

Santee MWR was established by a cooperative agreement with the South Carolina Public Service Authority to alleviate the loss of natural waterfowl habitat by the construction of hydro-electric power and navigation projects on Lakes Marion and Moultrie. The refuge primarily serves as a winter sanctuary for migratory waterfowl. Upland game hunting would occur before and after the critical wintering period for migratory waterfowl. Time and space zoning would be implemented to ensure that the hunting program does not conflict with the management of other wildlife species on the refuge. Therefore, the opening of Santee NWR to upland game hunting would be compatible with the primary purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of administering this hunt program would be $6,000. Within the annual refuge budget of approximately $242,000, the necessary funds would be available for the administration of the upland game hunting program. Therefore, the opening of the Santee NWR to upland game hunting would be in compliance with the Refuge Recreation Act.

Savannah NWR was established as a refuge and breeding ground for birds and wild animals by Executive Order 5748. This action revoked Executive Order 4626 which had previously established the refuge. Since national wildlife refuges are estalished primarily to safeguard wildlife populations and their habitats, and are not intended to be "safe havens" for individual animals, the use of hunting as a refuge management tool is in keeping with refuge purposes to conserve wildlife populations and habitat. When wildlife and their habitats are properly managed, they produce game populations from which a certain segment can be taken (whether by disease, predation, hunting, etc.) without affecting population trends. Savannah NWR reflects this situation. Upland and big game hunting on the refuge would utilize game species without affecting population trends and, further, would protect refuge habitat and dikes from hog depredation. Therefore, the opening of Savannah NWR to upland and big game hunting would be compatible with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of these hunting programs would be less than $6,000. Within the annual refuge complex budget of approximately $896,000, the necessary funds would be available for the administration of the upland and big game hunting programs. Therefore, the opening of Savannah NWR to these hunting programs would be in compliance with the Refuge Recreation Act.

Trempealeau NWR was established by Executive Order 7437 as a refuge and breeding ground for migratory birds and other wildlife. Since national wildlife refuges are established primarily to safeguard wildlife populations and their habitats, and are not intended to be "safe havens" for individual animals, the use of hunting as a refuge management tool is in keeping with refuge wildlife conservation purposes. Migratory game bird, upland game and big game hunting and sport fishing at Trempealeau NWR would be limited to specific areas of the refuge, so that only minor temporary disturbances would occur to refuge habitat and wildlife. For example, the areas, where cormorants and ospreys nest would be closed to sport fishing. In addition, migratory game bird, upland and big game hunting would be limited to areas where there will be minimal disturbance to waterfowl. The implementation of these hunting programs would be an integral part of the management of refuge wildlife populations. For example, big game hunting would be used to reduce the deer population which at the present time exceeds the carrying capacity of refuge habitat. Migratory game bird and upland game hunting would also utilize a renewable resource while maintaining balanced wildlife populations on the refuge. Therefore, the opening of Trempealeau NWR to migratory game bird, upland and big game hunting and sport fishing would be compatible with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of these hunting programs would be less than $8,000. Within the annual refuge budget of $135,000, the necessary funds would be available for the administration of the migratory game bird, upland and big game and sport fishing programs. Therefore, the opening of Trempealeau NWR to these hunting and sport fishing programs would be in compliance with the Refuge Recreation Act.

Wertheim NWR was established as a migratory bird sanctuary by donation under the provisions of section 5 of the Migratory Bird Conservation Act (16 U.S.C. 715). Sport fishing would cause only minor temporary disturbances to refuge wildlife. Access to fishing areas along the bank of the Carmans River would be limited to foot trails, and only nonmotorized boats would be permitted to launch from the refuge. Therefore, the opening of Wertheim NWR to sport fishing would be compatible with the purposes for which the refuge was established and would be in compliance with the Refuge Administration Act. The annual cost of the sport fishing program would be less than $1,000. Within the annual refuge budget of $255,000, the necessary funds would be available for the administration of the sport fishing program. Therefore, the opening of Wertheim NWR to sport fishing would be in compliance with the Refuge Recreation Act.

In summary, the Service belives that these hunting and fishing programs would be appropriate incidental or secondary uses of these refuges; would be compatible with and would not interfere with the primary purposes for which these refuges were established; would be biologically sound and compatible with the principles of sound wildlife management; and would not be inconsistent with any other previously authorized Federal programs or with the primary objectives of these refuges. The Service further believes that funds would be available for administration of these programs, and that these programs would otherwise be in the public interest in that they would provide needed recreational opportunities without impairment of the resource.

Hunting plans are developed for each hunting program on a refuge prior to the opening of the refuge to hunting. In some cases, refuge specific hunting regulations are included as a part of the hunting plan to ensure the compatibility of the hunting progrms with refuge purposes. For this reason, refuge specific regulations that are necessary for the proposed hunting programs are also included in this rulemaking.

**Economic Effect**

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will

have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

It is estimated that the proposed openings of refuges to hunting and fishing will generate approximately 74,000 annual visits. Using data from the 1980 National Survey of Hunting, Fishing, and Wildlife-Associated Recreation, total annual receipts generated from purchases of food, transportation, hunting equipment, fishing gear, fees, licenses, etc., associated with these programs are expected to be approximately $1.9 million, or substantially less than $100 million. In addition, since these estimated receipts will be spread over 12 States, the implication of this rule should not have a significant economic impact on the overall economy, or a particular region, industry or group of industries, or level of government.

With respect to small entities, this rule will have a positive aggregate economic effect on small business, organizations, and governmental jurisdictions. The proposed opening will provide recreational opportunities and generate economic benefits that would otherwise exist, and will impose no new costs on small entities. While the number of small entities likely to be affected is not known, the number is judged to be small. Moreover, the added cost to the Federal government of law enforcement, posting, etc., needed to implement activities under this rule would be less than the income generated from the implementation of these hunting and/or sport fishing programs.

Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

### Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

| Type of information collection | OMB Approval No. |
|---|---|
| Hunter surveys | 1018-0044 |
| Special use permits | 1018-0046 |
| Hunter reservation/application/blind assignment | 1018-0047 |
| Weapon qualification | 1018-0050 |

These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

### Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76-59] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), environmental assessments and Findings of No Significant Impact have been prepared for these proposed openings. Section 7 evaluations have been prepared where appropriate pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543). These documents are available for public inspection and copying in Room 2343, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, or by mail, addressing the Director at the adddress above.

Richard Frietsche, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240 is the primary author of this proposed rule-making document.

### List of Subjects

*50 CFR Part 32*

Hunting, National wildlife refuge system, Wildlife, Wildlife refuges.

*50 CFR Part 33*

Fishing, National wildlife refuge system, Wildlife refuges.

## PART 32—HUNTING

Accordingly, it is proposed to amend Part 32 of Chapter I of Title 50 of the *Code of Federal Regulations* by the addition of Alligator River, Chincoteague, Cross Creeks, Fox River, Hatchie, Lacassine, Necedah, Pea Island, Optima, Reelfoot, Santee, Savannah and Trempealeau National Wildlife Refuges in §§ 32.11, 32.21 and 32.31. Part 32 is further amended by the addition of refuge specific hunting regulations for Chincoteague, Cross Creeks, Fox River, Hatchie, Lacassine, Necedah, Optima, Pea Island, Reelfoot, Santee, Savannah and Trempealeau National Wildlife Refuges in §§ 32.12, 32.22 and 32.32 as follows:

**§ 32.11 List of open areas; migratory game birds.**

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**North Carolina**

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Alligator River National Wildlife Refuge

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**Oklahoma**

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Optima National Wildlife Refuge

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**Tennessee**

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Cross Creeks National Wildlife Refuge
Hatchie National Wildlife Refuge

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**Virginia**

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Chincoteague National Wildlife Refuge

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**Wisconsin**

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Necedah National Wildlife Refuge
Trempealeau National Wildlife Refuge

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**§ 32.12 Refuge specific regulations; migratory game birds.**

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(ff) *Oklahoma*

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(1) *Optima National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge.

* * * * *

(kk) *Tennessee*

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(1) *Cross Creeks National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted only on Wednesdays, Thursdays, and Sundays during the regular duck season.

(iii) Hunters are required to check in and out of the refuge.

(iv) Hunters must use and be in possession of only shells containing steel shot.

(2) *Hatchie National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge, subject to the following conditions:

(i) Hunting is permitted only on Tuesdays, Thursdays, and Saturday until noon.

(ii) Only portable blinds and blinds made of native vegetation may be used.

(iii) Portable blinds and decoys must be removed from the refuge following each day's hunt.

(iv) Hunters must use and be in possession of only shells containing steel shot.

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(oo) *Virginia—Chincoteague National Wildlife Refuge.* Hunting of migratory

game birds is permitted on Wildcat Marsh subject to the following condition: Permits are required.

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(qq) *Wisconsin*—(1) *Necedah National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession of only shells containing steel shot.

(2) *Trempealeau National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Hunters must use and be in possession of only shells containing steel shot.

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**§ 32.21 List of open areas; upland game.**

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GEORGIA

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Savannah National Wildlife Refuge

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NORTH CAROLINA

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Alligator River National Wildlife Refuge
Pea Island National Wildlife Refuge

* * * * *

OKLAHOMA

* * * * *

Optima National Wildlife Refuge

* * * * *

SOUTH CAROLINA

* * * * *

Savannah National Wildlife Refuge
Santee National Wildlife Refuge

* * * * *

TENNESSEE

* * * * *

Cross Creeks National Wildlife Refuge

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WISCONSIN

Trempealeau National Wildlife Refuge

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**§ 32.22 Refuge specific regulations; upland game.**

* * * * *

(i) *Georgia.*

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(2) *Savannah National Wildlife Refuge.* Hunting of squirrels and rabbits is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted for seven consecutive days beginning the fourth Monday in October.

* * * * *

(cc) *North Carolina.*

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(1) *Pea Island National Wildlife Refuge.* Hunting of pheasant and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of pheasant is permitted on Saturdays from the last Saturday in October through the second Saturday in December and on two days beginning Thanksgiving Day. Hunting of rabbit is also permitted when the above dates coincide with the State rabbit season.

(iii) Only shotguns are permitted.

* * * * *

(ee) *Oklahoma.*

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(1) *Optima National Wildlife Refuge.* Hunting of pheasant, bobwhite and scaled quail, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge subject to the following condition: Only shotguns and bows and arrows are permitted.

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(hh) *South Carolina.*

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(3) *Santee National Wildlife Refuge.* Hunting of bob-white quail, gray squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of gray squirrel is permitted through September 30.

(iii) Hunting of quail and rabbit is permitted only during February.

(iv) Hunting of raccoon and opossum is permitted from March 1 through March 10.

(4) *Savannah National Wildlife Refuge.* Hunting of squirrels and rabbits is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted for seven consecutive days beginning the fourth Monday in October.

* * * * *

(jj) *Tennessee.*

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(1) *Cross Creeks National Wildlife Refuge.* Hunting of squirrel is permitted on designated areas of the refuge subject to the following special condition: Hunting is permitted through October 31.

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(oo) *Wisconsin.*

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(3) *Trempealeau National Wildlife Refuge.* Hunting of ring-necked pheasant, ruffed grouse, gray and fox squirrels and cottontail rabbits is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only on that portion of the refuge lying north and west of the Green Bay and Western Railroad right-of-way.

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**§ 32.31 List of open areas; big game.**

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GEORGIA

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Savannah National Wildlife Refuge

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LOUISIANA

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Lacassine National Wildlife Refuge

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KENTUCKY

* * * * *

Reelfoot National Wildlife Refuge

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NORTH CAROLINA

* * * * *

Alligator River National Wildlife Refuge

* * * * *

TENNESSEE

* * * * *

Cross Creeks National Wildlife Refuge
Reelfoot National Wildlife Refuge

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WISCONSIN

* * * * *

Fox River National Wildlife Refuge
Trempealeau National Wildlife Refuge

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**§ 32.32 Refuge specific regulations; big game.**

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(q) *Louisiana.*

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(4) *Lacassine National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted from October 1 through October 31.

(ii) Only archery hunting is permitted.

* * * * *

(r) *Kentucky and Tennessee—Reelfoot National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted for two consecutive days beginning on the first Saturday in November and for two consecutive days beginning on the third Saturday in November.

(iii) One deer of either sex may be taken.

(iv) Hunters are required to check in and out of the refuge.

* * * * *

(ll) *Tennessee.*

* * * * *

(1) *Cross Creeks National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only during the archery season.

(ii) Checking and tagging of bagged deer is required.

* * * * *

(rr) *Wisconsin.*

* * * * *

(1) *Fox River National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) The construction or use of permanent blinds, platforms or ladders is not permitted.

* * * * *

(3) *Trempealeau National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) A refuge permit is required for archery hunting, and a valid State permit for Quota Area 61B is required for the firearms deer hunt.

(ii) Firearms hunting is permitted during the first two days of the State firearms deer season. The taking of deer is permitted only by shotgun or muzzleloader.

(iii) Archery hunting is permitted only during the December State season, and only on part of the refuge lying west of the auto tour road.

(iv) The construction or use of permanent blinds, platforms, or ladders is not permitted.

(v) Portable blinds or platforms must be removed from the refuge after each day's hunt.

* * * * *

## PART 33—SPORT FISHING

Accordingly it is proposed to amend Part 33 of Chapter I of Title 50 of the *Code of Federal Regulations* by the addition of Alligator River, Ouray, Trempealeau and Wertheim National Wildlife Refuges in § 33.4 as follows:

**§ 33.4 List of open areas; sport fishing.**

* * * * *

North Carolina

* * * * *

Alligator River National Wildlife Refuge

* * * * *

New York

* * * * *

Wertheim National Wildlife Refuge

* * * * *

Utah

* * * * *

Ouray National Wildlife Refuge

* * * * *

Wisconsin

* * * * *

Trempealeau National Wildlife Refuge

* * * * *

Authority: 16 U.S.C. 460k, 668dd.

Dated: July 27, 1984.

**J. Craig Potter,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 84-22059 Filed 8-17-84; 8:45 am]

BILLING CODE 4310-55-M

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 676

**[Docket No. 40803-4103]**

### King Crab Fishery of the Bering Sea and Aleutian Islands Area

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule and request for comment.

**SUMMARY:** NOAA proposes a rule to implement a fishery management plan for the king crab fishery of the Bering Sea and Aleutian Islands area (FMP). Under this proposal, NOAA will evaluate current and future State of Alaska laws and regulations for conformance with the FMP and applicable Federal law. If approved by NOAA under the procedures provided in the proposed rule, Alaska laws and regulations applicable to the king crab fishery will also have force and effect as Federal regulations for the Bering Sea and Aleutian Islands area. NOAA requests public comment on this rule and the FMP. This action is necessary to promote full participation in the conservation and management of king crab stocks in the Bering Sea and Aleutian Islands area by all persons interested in this fishery, whether or not they are residents of the State of Alaska. This action is intended to provide for the continued active participation of the State of Alaska in the management of king crab fisheries of the Bering Sea and Aleutian Islands area.

**DATES:** Comments on the FMP and the proposed rule must be received on or before September 28, 1984.

**ADDRESS:** Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. Copies of the FMP may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, telephone 907-274-4563.

**FOR FURTHER INFORMATION CONTACT:** Robert W. McVey, 907-586-7221.

**SUPPLEMENTARY INFORMATION:** On September 29, 1983, the North Pacific Fishery Management Council (Council) adopted the FMP under § 302 of the Magnuson Fishery Conservation and Management Act (Magnuson Act), and under §§ 303-305 has submitted it to the Secretary of Commerce (Secretary) for approval and implementation.

Rather than prescribing specific management measures for the fishery it covers, the FMP sets forth general standards and criteria for the management of that fishery. It provides a flexible framework for the development of specific management measures consistent with these standards and criteria, without requiring amendment of the FMP itself to incorporate those measures. The FMP provides management standards and criteria dealing with the following subjects: Fishing seasons, gear restrictions, gear placement, gear storage, vessel tank inspection, size and sex restrictions, and registration areas. The FMP also specifies the optimum yield (OY) of the fishery it covers by prescribing a method by which the annual allowable catch from that fishery must be determined, using the best available scientific information.

In adopting the FMP, the Council intended that, to the extent practicable, the State of Alaska should continue to play a leading role in the management of this king crab fishery. Since 1960, shortly after it attained statehood, Alaska has developed a sophisticated management system for the king crab fishery off its shores, both within and beyond the three-mile limit. This system, representing the acquired expertise of scores of State of Alaska employees and an investment by that State over the years of many millions of dollars, could not be duplicated in the immediate future by NOAA. At the same time, some residents of States other than Alaska who participate in the king crab fishery off that State have long been

concerned about their lack of representation of the Alaska Board of Fisheries (Board) and in the Alaska Department of Fish and Game (ADF&G), the agencies that manage fisheries on behalf of Alaska. In order to take maximum advantage of Alaska's ability and willingness to continue to manage the king crab fishery while at the same time providing sufficient Federal oversight to ensure representation and consideration of non-Alaska concerns, the Council and NOAA have proposed that the FMP be implemented by the Board and ADF&G in consultation with the Council (which includes non-Alaska representatives) and subject to the approval by NOAA of individual management measures adopted by the Board of ADF&G. The proposed rule delegates management authority for the fishery to the State of Alaska, and specifies the procedures by which existing and future State of Alaska management measures are to be evaluated for consistency with the standards and criteria of the FMP. These procedures are designed to ensure that all interested persons have the opportunity to make their views on State management measures known to NOAA while preventing unnecessary delay in their implementation or amendment. Consultation between the Council and the Board concerning proposals for new management measures will be conducted at joint meetings of those two bodies. Pending approval by the Secretary, new State of Alaska management measures may govern fishing for king crab beyond the three-mile limit in the Bering Sea and Aleutian Islands area only by vessels registered under the laws of the State of Alaska. After approval by the Secretary, State of Alaska management measures will acquire the force and effect of Federal law, and will apply to all vessels fishing for king crab in the Bering Sea and Aleutian Islands area.

Under the FMP and the proposed rule, each vessel fishing for king crab beyond the three-mile limit in the Bering Sea and Aleutian Islands area would have to obtain a Federal permit from the Secretary.

The FMP covers only the king crab fishery of the Bering Sea and Aleutian Islands area, and excludes the fishery in the Gulf of Alaska. King crab stocks in the Gulf are biologically discrete from those in the Bering Sea and Aleutians, and thus can be managed separately from them. The king crab fishery of the Gulf is, to a much greater extent than the fishery covered in the FMP, relied upon heavily by small local fleets. This fact renders much more difficult an assessment of the socioeconomic costs and benefits or proposed management standards and criteria for the Gulf fishery. While an FMP may eventually be adopted for the Gulf fishery, the Council decided that implementation of an FMP for the Bering Sea and Aleutians should not be delayed for the significant period that will be required to assess the costs and benefits of Federal management in the Gulf. NOAA concurs with this decision. In addition, there is substantial controversy whether any king crab fishery off Alaska would require Federal conservation and management in the absence of the concerns expressed by non-Alaskan participants about the representation of their interests in the State of Alaska management system. The expression of these concerns has been more urgent in connection with the king crab fishery of the Bering Sea and Aleutians than with the Gulf king crab fishery.

**Classification**

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 97–453, requires the Secretary to publish regulations proposed by a Council within 30 days of receipt of the FMP and regulations. At this time the Secretary has not determined that the FMP these rules would implement is consistent with the national standards of Magnuson Act § 301, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The NOAA Administrator has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. None of the economic effects that are summarized below are expected to rise to a level that would make this proposed rule a "major rule" for purposes of the Executive Order. The Council prepared a regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) which concludes that this proposed rule, if adopted, would have the following significant economic effects on small entities. These effects would derive from the fishery management measures that would be implemented under the proposed rule.

Delayed season opening dates tend to increase meat yield, which will probably cause ex-vessel value of landings to fluctuate. Later opening dates could place the season in bad weather conditions, which would affect smaller vessels more than large vessels. Both small and large vessels could be expected to lose fishing time under such circumstances. Increases in deadloss would be likely, and the probability of personal injury of the crew and damage to gear would be greater. Season changes would affect processors by changing product recovery rates. Late seasons would also affect transshipment of final product. Consumers might experience moderate price fluctuations, as a result of changes in meat yield.

The proposed carapace size limit is predicted to have wide-ranging effects on statewide price per pound because of a market preference of larger crab. At a carapace width of 6.25 inches, the predicted price per pound would be $.99. At 7.00 inches, this price is estimated to be $1.34. Changes in carapace size limits will likely alter available harvestable surplus. Decreases in allowable harvests resulting from size limits are expected to affect small operators adversely, since the average catch-per-unit-of-effort for such operators tents to be low. Larger vessels would be less subject to this phenomenon. Size limits would affect meat recovery rates and the ease of meat removal, and would thus affect the costs of processors. The magnitude of these potential effects is not known. Size limits could also affect prices to consumers and, in extreme cases of low crab abundance, lead to interruptions in king crab availability on the market.

Yields of crab will change with the exploitation rate, given any particular size limit. At a 6.5-inch size limit, with exploitation rates of 0.3 and 0.9, the expected ex-vessel revenues based on 1981 price data would be $51.5 million and $76.5 million, respectively. Processors would gain, other things being equal, with higher exploitation rates.

The establishment of exclusive registration areas would tend to redistribute the benefits of the fishery between small and large vessels. Exclusive registration favors smaller vessels, whil non-exclusive registration favor larger, more mobile vessels with high capacity. Processors are expected to be unaffected by the designation of registration areas.

Variations in gear storage regulations would also affect large and small vessels in different ways. The extremes for such regulations are on-land storage only and random at-sea storage. On-land storage, while adversely affecting all vessels, would tend to affect smaller vessels more than larger ones because of their lack of pot transport capacity. The direct costs of on-land storage would include the rental of space and cost of equipment necessary to handle the gear. The average cost per pot of on-land storage has been estimated at $18

per pot per year, or $7,704 per fisherman per year. The other extreme in gear storage is random at-sea storage. Because 80 per cent of the crab fleet currently stores its pots on land, a regulation allowing at-sea storage would free up this land for other uses. However, at-sea storage might affect fishery resources and impede navigation and other fisheries.

The FMP leaves open the possibility of a directed fishery on female king crab, which has been avoided in the past by both fishermen and processors in favor of the larger males. The effects of such a change on small vessels would be significant, because an additional large and distinct biomass of females might tend to relieve some of the competition between small and large vessels. The smaller vessels might be better suited than the larger ones to exploit the females, which would yield a lower catch per unit of effort and could require considerable sorting. Processors are not likely to be affected adversely by delivery of the smaller female king crab, since they have had more than a decade of experience in processing Tanner crab, which are similar in size than female king crab.

The Federal permits provided for by the FMP and the proposed rule would be issued to vessel owners free of charge with no requirement other than the submission of certain information. They would thus have no significant economic effect. The main purposes of the Federal permit requirement are to generate information about the size and characteristics of the fleet for future management purposes and to make administrative permit revocation or modification available to NOAA as a response to violations of the management measures applicable to the king crab fishery.

This proposed rule is exempt from the procedures of Executive Order 12291 under section 8(a)(2) of that Order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97-453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of the order.

This proposed rule contains a collection of information requirement at § 676.4 that is subject to the Paperwork Reduction Act (PRA). This requirement has been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the PRA. Comments on the collection of this information should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for NOAA.

The Council determined that this proposed rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. This determination has been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

**List of Subjects in 50 CFR Part 676**

Administrative practice and procedure, Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 14, 1984.

**Joseph W. Angelovic,**

*Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR Chapter VI is amended by adding a new Part 676, to read as follows:

## PART 676—KING CRAB FISHERY OF THE BERING AND ALEUTIAN ISLANDS AREA

### Subpart A—General Measures

Sec.
676.1 Purpose and scope.
676.2 Definitions.
676.3 Relation to other laws.
676.4 Permits.
676.5 General prohibitions.
676.6 Facilitation of enforcement.
676.7 Penalties.

### Subpart B—Management Measures

676.20 Initial implementation of the FMP.
676.21 New State laws and regulations.
676.22 Reconsideration of a final notice by the Secretary.
676.23 Amendment of the FMP.

**Authority:** 16 U.S.C. 1801 *et seq.*

### Subpart A—General Measures

**§ 676.1 Purpose and scope.**

(a) Regulations in this part govern fishing for king crab by vessels of the United States within the Bering Sea and Aleutian Islands area.

(b) Subject to the other provision of this part, the authority to implement the Fishery Management Plan for the King Crab Fishery of the Bering Sea and Aleutian Islands Area (FMP) is delegated to the State of Alaska.

(c) Subject to other requirements of law, this part will take effect upon receipt by the Secretary of a statement signed by the Governor of the State of Alaska accepting the provisions of this part on behalf of the State and identifying the agencies that will exercise the authority to implement the FMP delegated by paragraphs (b) of this section (designated agency).

**§ 676.2 Definitions.**

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

*Authorized officer* means—

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of Transportation to enforce the provisions of the Magnuson Act; and

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

*Bering Sea and Aleutian Islands area* means those waters outside the boundaries of the State of Alaska lying south of the Bering Strait and east of the U.S.-U.S.S.R. Convention line of 1867, and extending south of the Aleutian Islands for 200 miles between the Convention line and 167°47'30" W. longtitude.

*Council* means the North Pacific Fishery Management Council, 604 West Fourth Avenue, Room 166, Anchorage, AK 99510

*Designated agency* means the agency designated by the Governor of the State of Alaska under § 676.1(c) of this part.

*Fish* includes king crab.

*Fishing* means—

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which reasonably can be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a) through (c) of this definition.

*Fishing vessel* means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for fishing or for assisting or supporting a vessel engaged in fishing.

*Fishery management plan* (FMP) means the Fishery Management Plan for the King Crab Fishery of the Bering Sea and Aleutian Islands Area.

*King crab* means the following species of the family Lithodidae:

(a) *Paralithodes camtschatica*, red king crab;

(b) *Paralithodes platypus*, blue king crab;

(c) *Lithodes aequispina*, brown or golden king crab;

(d) *Lithodes couesi*.

*Magnuson Act* means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*)

*Operator*, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

*Regional Director* means the Director, Alaska Region, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99802.

*Secretary* means the Secretary of Commerce.

*Vessel of the United States* means—

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and measuring less than 5 net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and used exclusively for pleasure.

**§ 676.3 Relation to other laws.**

(a) *Federal law.* For regulations governing fishing by vessels of the United States for halibut, see regulations of the International Pacific Halibut Commission at 50 CFR Part 301; for those governing fishing for groundfish off Alaska, see 50 CFR Parts 672 and 675; for those governing salmon fishing off Alaska, see 50 CFR Part 674; for those governing fishing for Tanner crab, see 50 CFR Part 671; and for those governing permits and certificates of inclusion for the taking of marine mammals, see 50 CFR Part 216.

(b) *State law.* Each law and regulation of the State of Alaska approved under this part will be incorporated by reference in the **Federal Register** in accordance with 1 CFR Part 51. Laws of the State of Alaska approved under this part are codified in Title 16 of the *Alaska Statutes*. Regulations of the State of Alaska approved under this part are codified in title 5 of the *Alaska Administrative Code*. Copies of these laws and regulations may be obtained from the Alaska Department of Fish and Game, Commercial Fisheries Division, P.O. Box 3-2000, Juneau, AK 99802, telephone 907-465-4210.

**§ 676.4 Permits.**

(a) *General.* No vessel of the United States may fish for king crab in the Bering Sea and Aleutian Islands area without first obtaining a permit issued under this section. Each such permit will be issued without charge.

(b) *Application.* A vessel owner may obtain a permit required under the preceding subsection by submitting to the Regional Director a written application containing the following information:

(1) The applicant's name, mailing address, and telephone number;

(2) The name of the vessel;

(3) The vessel's U.S. Coast Guard documentation number or State registration number;

(4) The home port of the vessel;

(5) The length of the vessel;

(6) The type of fishing gear to be used; and

(7) The signature of the applicant.

The Regional Director may accept a completed State of Alaska commercial fishing license application in satisfaction of the requirements of this subsection.

(OMB approval is pending.)

(c) *Issurance.* (1) Upon receipt of a properly completed application, the Regional Director will issue a permit required by paragraph (a) of this section.

(2) Upon receipt of an incomplete or improperly completed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(d) *Notification of change.* Any person who has applied for and received a permit under this section must give written notification of any change in the information provided under paragraph (b) of this section to the Regional Director within 30 days of the date of that change.

(e) *Duration.* A permit issued under this section authorizes the permitted vessel to fish for king crab in the Bering Sea and Aleutian Islands area during a single specified year, and continues in full force and effect through December 31 of the year for which it was issued, or until it is revoked, suspended, or modified under 50 CFR Part 621 (Civil Procedures).

(f) *Alteration.* No person may alter, erase, or mutilate any permit issued under this section. Any such permit that has been intentionally altered, erased, or mutilated will be invalid.

(g) *Transfer.* Permits issued under this section are not transferable or assignable. Each such permit is valid only for the vessel for which it is issued. The Regional Director must be notified of a change in ownership under paragraph (d) of this section.

(h) *Inspection.* Any permit issued under this section must be carried aboard the vessel whenever the vessel is fishing for king crab in the Bering Sea and Aleutian Islands area. The permit must be presented for inspection upon request of any authorized officer.

(i) *Sanctions.* Subpart D of 50 CFR Part 621 (Civil Procedures) governs the imposition of permit sanctions against a permit issued under this section. As specified in that Subpart D, a permit may be revoked, modified, or suspended if the permitted vessel is used in the commission of an offense prohibited by the Magnuson Act or this part; and such a permit must be revoked if a civil penalty or criminal fine imposed under the Magnuson Act and pertaining to a permitted vessel is not paid.

**§ 676.5 General prohibitions.**

It is unlawful for any person to—

(a) Fish for king crab in the Bering Sea and Aleutian Islands area, except as allowed by laws and regulations of the State of Alaska approved under this part at the time such fishing occurs;

(b) Fish for king crab in the Bering Sea and Aleutian Islands area without, or in violation of, a valid permit issued under this part;

(c) Violate any other provision of the Magnuson Act or this part;

(d) Fail to comply immediately with enforcement and boarding procedures specified in § 676.6 of this part;

(e) Possess, have custody or control of, ship, transport, import, export, offer for sale, sell, or purchase any king crab taken or retained in violation of the Magnuson Act, this part, any permit issued under this part, or any law or regulation of the State of Alaska approved under this part;

(f) Refuse to allow an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, any permit issued under this part, or any law or regulation of the State of Alaska approved under this part;

(g) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (f) of this section;

(h) Resist a lawful arrest for any act prohibited by the Magnuson Act, this part, any permit issued under this part, or any law or regulation of the State of Alaska approved under this part; or

(i) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such person has committed any act prohibited by the Magnuson Act, this part, any permit issued under this part,

or any law or regulation of the State of Alaska approved under this part.

**§ 676.6 Facilitation of enforcement.**

(a) *General.* The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel and its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signs, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to and stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must—

(1) Guard Channel 16, VHF-FM if so equipped;

(2) Stop immediately and lay to or maneuver is such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repreated (.— .—) [1][2] is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "Ry-CY" (.—. —.— — —.—. — .— —) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (... — —.— ...— —) means "you should stop or heave to; I am going to board you."

(4) "L" (.—..) means "you should stop your vessel instantly."

**§ 676.7 Penalties.**

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty, permit sanction, and forfeiture provisions of the Magnuson Act, to 50 CFR Part 620 (Citations), to 15 CFR Part 904 (Civil Procedures), and to other applicable law.

## Subpart B—Management Measures

**§ 676.20 Initial implementation of the FMP.**

(a) After promulgation of this part, the Secretary will publish in the **Federal Register** a notice of approval which (1) specifies the laws and regulations of the State of Alaska governing fishing for king crab in the Bering Sea and Aleutian Islands area then in effect that he finds to be inconsistent with the FMP; (2) declares that the laws and regulations so specified cease to govern fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska; (3) declares that all laws and regulations of the State of Alaska governing fishing for king crab in the Bering Sea and Aleutian Islands area then in effect that are not so specified are approved under this part and govern all fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska; and (4) states the findings and conclusions upon which the Secretary's action is based. The Secretary will not publish the notice provided for in this section until interested persons have been afforded a period of at least 45 days in which to comment on laws and regulations of the State of Alaska governing fishing for king crab in the Bering Sea and Aleutian Islands area then in effect and the consistency of those laws and regulations with the FMP. The statement of findings and conclusions contained in the notice published under this section must respond to the comments received during this period. The Secretary will publish the notice provided for in this section after he has consulted with the Council concerning his action and the findings and conclusions upon which it is based.

(b) The Secretary, after consultation with the Council, may promulgate and amend such other regulations as may be necessary to implement the FMP fully, in accordance with other requirements of law.

**§ 676.21 New State laws and regulations.**

(a) *New State laws.* (1) Within 30 days after final enactment of a law of the State of Alaska governing fishing for king crab in the Bering Sea and Aleutian Islands area that was not in effect when the notice provided for in § 676.20 of this part was published, the Secretary will publish in the **Federal Register** a notice requesting comments by any interested person on that law and whether it is consistent with the FMP. Interested persons will have the opportunity to submit comments for a period of at least 45 days after publication of the notice requesting comments.

(2) Within ninety days afer final enactment of a law referred to in paragraph (a)(1) of this section, and after consultation with the Council, the Secretary will publish in the **Federal Register** a notice of approval which (1) specifies any provision of that law that he finds to be inconsistent with the FMP; (2) declares that any provision so specified does not govern fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or

[1] Period (.) means a short flash of light.

[2] Dash (—) means a long flash of light.

not it is registered under the laws of the State of Alaska; (3) declares that all provisions of that law which are not so specified are approved under this part and will govern all fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska; and (4) states the findings and conclusions upon which the Secretary's action is based, responding to comments received under the notice provided for in paragraph (a)(1) of this section.

(3) A law referred to in paragraph (a)(1) of this section will govern fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel registered under the laws of the State of Alaska, until the Secretary publishes the notice provided for in paragraph (a)(2) of this section. If a law or regulation of the State of Alaska that was previously approved under this part conflicts with a law governing fishing for king crab in the Bering Sea and Aleutain Islands area under this paragraph, the previously approved law or regulation will cease to be approved under this part with respect to vessels registered under the laws of the State of Alaska. When the Secretary publishes a notice under paragraph (a)(2) of this section disapproving the conflicting provisions of the new law, the previously approved law or regulation will once again be considered approved under this part with respect to vessels registered under the laws of the State of Alaska.

(b ) *New State regulations.* (1) As soon as practicable after the designated agency of the State of Alaska publishes for public comment a proposed regulation governing fishing for king crab in the Bering Sea and Aleutian Islands area that was not in effect when the notice provided for in § 676.20 of this part was published, the Secretary will publish in the **Federal Register** a notice requesting comments by any interested person on that proposal and whether it is consistent with the FMP. The notice will require that such comments be submitted to the designated agency in accordance with that agency's administrative procedures. It will explain that the Secretary will determine whether any such proposed regulation that may be adopted by that agency is consistent with the FMP on the basis of the administrative record developed before that agency.

(2) Within 30 days after the adoption by the designated State agency of proposed regulation referred to in paragraph (b)(1) of this section, and after consultation with the Council, the Secretary will publish in the **Federal Register** a notice of approval which (1) specifies any provision of that regulation that he finds to be inconsistent with the FMP; (2) declares that any provision so specified do not govern fishing for king crab in the Bering Sea and Aleutain Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska; (3) declares that all provisions of that regulation that are not so specified are approved under this part and govern all fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel, whether or not it is registered under the laws of the State of Alaska; and (4) states the findings and conclusions upon which the Secretary's action is based. The statement of findings and conclusions contained in the notice published under this paragraph will be based upon the administrative record developed before the designated agency of the State of Alaska and will respond to relevant points raised in comments submitted to that agency on the proposed regulation.

(3) A regulation referred to in paragraph (b)(1) of this section may govern fishing for king crab in the Bering Sea and Aleutian Islands area by any vessel registered under the laws of the State of Alaska, until the Secretary publishes the notice provided for in paragraph (b)(2) of this section. If a regulation of the State of Alaska that was previously approved under this part conflicts with a regulation governing fishing for king crab in the Bering Sea and Aleutian Islands area under this paragraph, the previously approved regulation will cease to be approved under this part with respect to vessels registered under the laws of the State of Alaska. When the Secretary publishes a notice under paragraph (b)(2) of this section disapproving the conflicting provisions of the new regulation, the previously approved regulation will once again be considered approved under this part with respect to vessels registered under the laws of the State of Alaska.

(4) As soon as practicable after the designated agency of the State of Alaska adopts, without opportunity for public comment, a regulation governing fishing for king crab in the Bering Sea and Aleutian Islands area that was not in effect when the notice provided for in § 676.20 of this part was published, the Secretary will publish in the **Federal Register** a notice of approval having the content prescribed for a notice published under paragraph (b)(2) of this section. A regulation referred to in this paragraph may govern fishing for king crab in the Bering Sea and Aleutian Islands area by vessels registered under the laws of the State of Alaska until the Secretary publishes the notice provided for in this paragraph. If a regulation of the State of Alaska that was previously approved under this part conflicts with a regulation governing fishing for king crab in the Bering Sea and Aleutian Islands area under the second sentence of this paragraph, the previously approved regulation will cease to be approved under this part with respect to vessels registered under the laws of the State of Alaska. When the Secretary publishes a notice provided for in this paragraph disapproving the conflicting provisions of the new regulation, the previously approved regulation will once again be considered approved under this part with respect to vessels registered under the laws of the State of Alaska.

**§ 676.22 Reconsideration of a final notice by the Secretary.**

Within ten days after publication in the **Federal Register** of a notice of final action by the Secretary under § 676.20 or § 676.21 of this part, any person may request the Secretary to reconsider and change that action. The request will specify the proposed change in the action, and the reasons that change is believed to be necessary. The request will not be considered to have been made until it has been received at the address specified in the notice of the action. Within 30 days after publication of the notice of final action in the **Federal Register**, the Secretary will grant or deny all requests for reconsideration of that action that have been made, and will promptly publish a notice of such grant or denial in the **Federal Register.**

**§ 676.23 Amendment of the FMP.**

The provisions of § 676.20 and § 676.22 of this part apply upon implementation of any amendment of the FMP.

[FR Doc. 84-22034 Filed 8-15-84; 4:11 pm]

BILLING CODE 3510-22-M

# Notices

Federal Register
Vol. 49, No. 162
Monday, August 20, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Soil Conservation Service

### Kickapoo Creek (Lipan) Watershed, TX; Intent to Deauthorize Federal Funding

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of Intent to Deauthorize Federal Funding.

**SUMMARY:** Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives a notice of the intent to deauthorized Federal funding for the Kickapoo Creek (Lipan) Watershed Project, Erath, Hood, Palo Pinto and Parker Counties, Texas.

**FOR FURTHER INFORMATION CONTACT:** Billy C. Griffin, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main, Temple, Texas 76501–7682, telephone 817–774–1214.

**SUPPLEMENTARY INFORMATION:** A determination has been made by Billy C. Griffin that the proposed works of improvement for the Kickapoo Creek (Lipan) Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Billy C. Griffin, State Conservationist, at the above address and telephone number.

No administrative action on implementaion of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearing house view of Federal and federally assisted programs and projects is applicable)

Dated: August 9, 1984.

**Billy C. Griffin,**
*State Conservationist.*

[FR Doc. 84–22065 Filed 8–17–84; 8:45 am]

BILLING CODE 3410–16–M

## CIVIL AERONAUTICS BOARD

### Use-It-or-Lose-It Test of Essential Air Transportation

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Correction.

**SUMMARY:** The notice that appears at 49 FR, page 31743, August 8, 1984, column two, concerning Board Order 84–8–9, Order to Show Cause, has incorrect information concerning the dates objections are due. Under the caption **"DATES"** the date for response to objections should be September 10, 1984 rather than August 28, 1984.

**Phyllis T. Kaylor,**
*Secretary.*

[FR Doc. 84–22067 Filed 8–17–84; 8:45 am]

BILLING CODE 6320–01–M

## CIVIL AERONAUTICS BOARD

[Docket No. 42404]

### Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Week Ended August 15, 1984

#### Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause-order, a tentative order, or in appropriate cases a final order without further proceedings.

| Date filed | Docket No. | Description |
|---|---|---|
| Aug. 6, 1984 | 42404 | American Trans Air, Inc., c/o Edgar H. Lamb, Yarling, Robinson, Hammel & Lamb, 729 North Pennsylvania Street, P.O. Box 44128, Indianapolis, Indiana 46204.<br>Application of American Trans Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity to authorize it to engage in scheduled interstate and overseas air transportation of persons, mail and property, and for a fitness determination. Conforming Applications, Motions to Modify Scope and Answers may be filed by September 3, 1984. |

**Phyllis T. Kaylor,**
*Secretary.*

[FR Doc. 84–22070 Filed 8–17–84; 8:45 am]

BILLING CODE 6320–01–M

[Order 84–8–60]

### Application of Flirite, Inc. for Certificate Authority

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Order to Show Cause (84–8–60).

**SUMMARY:** The Board is proposing to find Flirite, Inc. fit, willing, and able and to issue it a certificate of public convenience and necessity under section 401 of the Federal Aviation Act authorization it to provide interstate and overseas scheduled air transportation of persons, property, and mail and all-cargo service between Old Harbor and Kodiak, Alaska.

**DATE:** All interested persons wishing to respond to the Board's tentative fitness determination and proposed certificate award shall file, and serve upon all persons listed below no later than Setember 4, 1984, a statement of their response, together with a summary of

testimony, statistical data, and other material expected to be relied upon to support any objections raised.

**ADDRESS:** Responses should be filed in Docket 42064, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon the parties listed in the Attachment to the order.

**FOR FURTHER INFORMATION CONTACT:** Joseph W. Bolognesi, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5333.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 84-8-60 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-8-60 to that address.

By the Civil Aeronautics Board: August 13, 1984.

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 84-22069 Filed 8-17-84; 8:45 am]

BILLING CODE 6320-01-M

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**[Order 84-8-11]**

## Application of Universal Airlines, Inc. for Certificate Authority

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Correction on Notice of Order to Show Cause (84-8-11).

**SUMMARY:** The notice that appears at 49 FR, page 32094, August 10, 1984, column three, concerning Board Order 84-8-11 has an incorrect date concerning the filing of objections. Objections to Order 84-8-11 are due August 30, 1984 rather than August 24, 1984.

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 84-22068 Filed 8-17-84; 8:45 am]

BILLING CODE 6320-01-M

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# CIVIL RIGHTS COMMISSION

## Maine Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 8:30 p.m., on September 18, 1984, at the Central Maine Area Agency on Aging, Third Floor, Pavilion Building, Augusta Mental Health Institute, Hospital Street, Augusta, Maine 04330. The purpose of the meeting is to discuss the effort to add an Equal Rights Amendment to the State's Constitution, and to hear a report on the conference of State Advisory Committee chairs.

Persons desiring additional information, or planning a presentation to the Committee, should contact the New England Regional Office at (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 14, 1984.

**John I. Binkley,**

*Advisory Committee Management Officer.*

[FR Doc. 84-21969 Filed 8-17-84; 8:45 am]

BILLING CODE 6335-21-M

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# DEPARTMENT OF COMMERCE

## International Trade Administration

## Performance Review Board Membership

This notice announces the appointment by the Department of Commerce Under Secretary for International Trade, Lionel H. Olmer, of the Performance Review Board (PRB) for ITA.

The purpose of the International Trade Administration PRB is to review performance actions for recommendation to the appointing authority as well as other related matters.

The Chairperson of the PRB is: John Richards, Director, Office of Industrial Resource Administration.

The following are members from ITA:

Brant W. Free, Director, Office of Service Industries

Paul L. Guidry, Special Assistant to the Director General, U.S. and Foreign Commercial Services

James P. Moore, Jr., Deputy Assistant Secretary for Trade Information and Analysis

Saul Padwo, Director, Office of Trade Information Services

James R. Phillips, Deputy Assistant Secretary for Capitol Goods and International Construction

William V. Skidmore, Director, Office of Antiboycott Compliance

Maureen R. Smith, Director, Office of Japan

Franklin J. Vargo, Deputy Assistant Secretary for Europe

**Minority Business Development Agency**

Herbert S. Becker, Assistant Director for Advocacy Research and Information

Dated: August 8, 1984.

**Thomas Lambiase,**

*Acting Personnel Officer, ITA.*

[FR Doc. 84-21998 Filed 8-17-84; 8:45 am]

BILLING CODE 3510-25-M

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## Bottled Green Olives From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

**AGENCY:** International Trade Administration/Import Administration Commerce.

**ACTION:** Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

**SUMMARY:** The Department of Commerce has conducted an administrative review of the countervailing duty order on bottled green olives from Spain. The review covers the period January 1, 1982 through December 31, 1982. As a result of the review, the Department has preliminarily determined the total net subsidy for the period to be 1.75 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** August 20, 1984.

**FOR FURTHER INFORMATION CONTACT:** Susan Silver or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:**

### Background

On November 9, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 51501) the final results of its last administrative review of the countervailing duty order on bottled green olives from Spain (39 FR 32904; September 12, 1974) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the

Department has now conducted that administrative review.

On May 31, 1984, the International Trade Commission ("the ITC") published its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of Spanish bottled green olives if the order were revoked (49 FR 22720). Consequently, the Department published in the Federal Register (49 FR 23671 June 7, 1984) a revocation of the order with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after May 3, 1982.

**Scope of the Review**

Imports covered by the review are shipments of Spanish bottled green olives. Such merchandise is currently classifiable under items 148.4420, 148.4440, 148.4800, and 148.5020 through 148.5080 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1982 through December 31, 1982, and five programs: (1) A rebate of indirect taxes upon exportation, under the Desgravacion Fiscal a la Exportacion (2) an operating capital loans program; (3) an export investment reserve program; (4) preferential financing for plant expansion; and (5) regional financing programs from SODIAN and SODIEX.

**Analysis of Programs**

(1) Desgravacion Fiscal a la Exportacion ("DFE") Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the DFE, rebates both these accumulated IGTE indirect taxes and certain final stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs which are physically incorporated in the exported product (See Annex 1.1 of Part 355 of the Commerce Regulations): and (2) indirect taxes levied at the final stage (see Annex 1.2 of Part 355 of the Commerce Regulations). If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physically incorporated inputs are the raw materials previously allowed by the Department. The rebate of two final stage taxes, the parafiscal tax on export licenses and the tax on freight and insurance, is also allowable when calculating whether or not there is an overrebate of indirect taxes under the DFE.

As of January 1, 1982, the Spanish government increased the IGTE rate from 3.80 percent to 4.60 percent, while maintaining the previous rate for the export rebate. We concluded in our last review that an earlier increase in the IGTE rate had eliminated the overrebate previously found countervailable. Based on our analysis of the indirect taxes on physically incorporated inputs and the two indirect taxes on the final product, we preliminarily find that the additional change in the IGTE rate for 1982 continues to eliminate the overrebate. Therefore, we preliminarily determine the net subsidy attributable to this program during the period of review to be zero percent.

*(2) Operating Capital Loans*

The Spanish government requires banks to set aside funds to provide short-term operating capital loans, as part of its Privileged Circuit Exporter Credit Program. These loans are granted for a period of less than one year. For 1982, the Spanish government fixed the interest rate for such loans at 10 percent. To determine the interest rate on comparable commerical loans, we took the average national prime interest rate for loans of comparable length, added the prevailing interest charge over prime facing average borrowers and added the legally established fees and commissions. Comparing this benchmark with the 10 percent interest rate established for the operating capital loans program, we found a differential of 9.38 percent during the period of review.

We calculated the benefit under this program by multiplying the total amounts of loans received by bottled green olive exporters in 1982 by the 9.38 percent differential. We then divided the results by total exporters in 1982. Using this methodology, we preliminarily determine the net subsidy conferred under this program to be 1.75 percent *ad volorem* for 1982.

*(3) Other Programs*

We also examined the following programs which we preliminarily find exporters of bottled green olives did not use during the review period:

A. Export Investment Reserve program.

B. Preferrential financing for plant expansion.

C. Regional Financing programs from SODIAN AND SODIEX.

**Preliminary Results of the Review**

As a result of the review, we preliminarily determien the total net subsidy conferred during 1982 to be 1.75 percent *ad volorem*. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 1.75 percent of the f.o.b. invoice price on any shipments exported on or after Janaury 1, 1982 and entered, or withdrawn from warehouse, for consumption before May 3, 1982, the effective date of the revocation.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: August 14, 1984.

**Alan F. Holmer,**

*Deputy Assistant Secretary, Import Administration.*

[FR Doc. 84-22026 Filed 8-17-84; 8:45 am]

BILLING CODE 3510-DS-M

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## Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee will be held September 5, 1984, at 9:30 a.m., Federal Building Room 15022, 450 Golden Gate Avenue, San Francisco, California. The meeting will continue to its conclusion on September 6, 1984, in Room 15022, the Federal Building. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer peripherals.

components and related test equipment or technology.

**General Session**

1. Opening remarks by the Chairman.

2. Presentation of papers or comments by the public.

3. Report of task group on Foreign Availability—Paul Humphrey, Chairman.

4. Membership status reports by Chairman.

5. Review of the complete inputs for the arrays of know-how report.

6. Working session on the arrays with the objective of:

a. Integrate all inputs and contributions,

b. Determine form of final report,

c. Complete the final draft of the MCTL implementation report on the arrays of know-how.

7. Briefing by DOC on proposed distribution license changes.

8. Discussion and review of Computer Peripherals TAC annual report.

9. Collection and discussion of possible agenda items for 1985 Computer Peripherals TAC annual plan.

10. Discussion of subcommittee organization for Computer Peripherals TAC.

**Executive Session**

11. Discussions of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meeting of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377-4217.

For further information or copies of the minutes contact Margaret A. Cornejo (202) 377-2583.

Dated: August 15, 1984.

**Milton M. Baltas,**

*Director of Technical Programs, Office of Export Administration.*

[FR Doc. 84-22025 Filed 8-17-84; 8:45 am]

BILLING CODE 3510-DT-M

## Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles; Harvard University, et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations required the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket No. 83-208. Applicant: Harvard University, Cambridge, MA 02138. Instrument: He Dilution Refrigerator System, Model 200 and Accessories. Date of denial without prejudice to resubmission: April 27, 1984.

Docket No.: 83-227. Applicant: The Aerospace Corporation, Los Angeles, CA 90009. Instrument: Excimer-Multi-Gas Laser, Model EMG-101 and Accessories. Date of denial without prejudice to resubmission: June 5, 1984.

Docket No.: 83-266. Applicant: The Aerospace Corporation, Los Angeles, CA 90002. Instrument: Multigas Laser Head, Model EMG 101, and Accessories. Date of denial without prejudice to resubmission: May 25, 1984.

Docket No.: 84-30. Applicant: Baylor College of Medicine, Houston, TX 77030. Instrument: Micromanipulators. Date of denial without prejudice to resubmission: April 13, 1984.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

**Frank W. Creel,**

*Acting Director, Statutory Import Programs Staff.*

[FR Doc. 84-22040 Filed 8-17-84; 8:45 am]

BILLING CODE 3510-DS-M

## Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; Centers for Disease Control, et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 84-203. Applicant: Centers for Disease Control, Atlanta, GA 30333. Instrument: Electron Microscope, Model EM 410LS and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 49 FR 24911. Instrument ordered: April 10, 1984.

Docket No.: 84-213. Applicant: Illinois State University, Normal, IL 61761. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 49 FR 28426. Instrument ordered: April 19, 1984.

Docket No.: 84-214. Applicant: University of Wisconsin-Madison, Madison, WI 53706. Instrument: Electron Microscope, Model H-600 with Accessories. Manufacturer: Hitachi Limited, Japan. Intended use: See notice at 49 FR 28288. Instrument ordered: April 2, 1984.

Docket No.: 84-216. Applicant: Universisty of Texas Health Science Center at Houston, Houston, TX 77030. Instrument: Electron Microscope, Model JEM-1200EX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 49 FR 28288. Instrument ordered: March 31, 1984.

Docket No.: 84-219. Applicant: University of Texas Medical School at Houston, Houston, TX 77030. Instrument: Electron Microscope, Model JEM-100CX with Accessories. Manufacturer: JEOL, Japan. Intended use: See notice at 49 FR 28288. Instrument ordered: April 26, 1984.

Docket No.: 84-220. Applicant: Shriners Hospital for Crippled Children, Portland, OR 97201. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use: See notice at 49 FR 28426. Instrument ordered: April 25, 1984.

Docket No.: 84-221. Applicant: Oklahoma Medical Research Foundation, Oklahoma City, OK 73104. Instrument: Electron Microscope, Model JEM-1200EX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 49 FR 28427. Instrument ordered: April 10, 1984.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used,

was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or of any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Services.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

**Frank W. Creel,**

*Acting Director, Statutory Import Programs Staff.*

[FR Doc. 84-22041 Filed 8-17-84; 8:45 am]

BILLING CODE 3510-DS-M

## Decision on Application for Duty-Free Entry of Scientific Instrument; Midwest Research Institute

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 84-162. Applicant: Midwest Research Institute, Kansas City, MO 64110. Instrument: Mass Spectrometer/Data System, Model MS 50TC/DS 55M. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use: See notice at 49 FR 19563.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a guaranteed static resolution to 150 000 (10.0% valley) and a dynamic resolution of 80 000. The National Institutes of Health advises in its memorandum dated July 10, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

**Frank W. Creel,**

*Acting Director, Statutory Import Programs Staff.*

[FR Doc. 84-22042 Filed 8-17-84; 8:45 am]

BILLING CODE 3510-DS-M

## National Oceanic and Atmospheric Administration

## North Pacific Fishery Management Council; Public Hearings

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of Public Hearings.

**SUMMARY:** The North Pacific Fishery Management Council will hold two public hearings to gather comments on draft comprehensive fishery management goals which the Council will consider for adoption at its September 26-27, 1984, meeting in Anchorage. Copies of the draft goals, which have been mailed to the Council's entire mailing list, can be obtained by contacting the Council office.

**DATES:** September 7, 1984, Seattle, Washington, at 9:00 a.m., and September 24, 1984, Anchorage, Alaska, at 5:00 p.m.

**ADDRESSES:** The hearings will take place at the following locations:

Northwest and Alaska Fisheries Center, Room 369, 2725 Montlake Boulevard East, Seattle, Washington

and

Old Federal Building, 605 W. 4th Avenue, Anchorage, Alaska

**FOR FURTHER INFORMATION CONTACT:** Ronald W. Miller, Special Advisor, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, 907-274-4563.

Dated: August 15, 1984.

**Carmen J. Blondin,**

*Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.*

[FR Doc. 84-22032 Filed 8-17-84; 8:45 am]

BILLING CODE 3510-22-M

## United States Travel and Tourism Administration

## Travel and Tourism; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on September 18, 1984, at 9:30 a.m. in Room 4830 of the Main Commerce Building, 14th and Constitution Avenue, NW., Washington, DC 20230.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97-63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order
II. Approval of Minutes
III. USTTA Marketing Concept/Test Program
IV. Industry Marketing Plan
V. Visitor Arrival Processing
VI. Miscellaneous
VII. Meeting Schedule
VIII. Adjournment

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202-377-0140) will respond to public requests for information about the meeting.

**Donna Tuttle,**

*Under Secretary for Travel and Tourism, U.S. Department of Commerce.*

[FR Doc. 84-20027 Filed 8-17-84; 6:45 am]

BILLING CODE 3510-11-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

## Soliciting Public Comment on Bilaterial Textile Consultations With the Government of Pakistan on Category 631pt. (Work Gloves)

August 15, 1984.

On July 30, 1984, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Pakistan to enter into consultations concerning exports to the United States of man-made fiber work

gloves in Category 631pt., (only T.S.U.S.A. numbers 704.3125, 704.8525, 704.8550 and 704.9000) produced or manufactured in Pakistan.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Pakistan, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of man-made fiber work gloves in Category 631pt., produced or manufactured in Pakistan and exported to the United States during the twelve-month period which began on July 30, 1984 and extends through July 29, 1985 at a level of 78,256 dozen pairs.

A summary market statement follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of man-made fiber work gloves in Category 631pt., is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States.

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Pakistan—Market Statement**

*Category 631pt.—Man-Made Fiber Work Gloves: July 1984*

Category 631pt. imports from Pakistan were 136 percent higher during the year ending June 1984, at 101,356 dozen pairs, than during the previous twelve months January–June 1984 imports, at 86,600 dozen pairs, were 50 percent higher than in all of 1983. Pakistan supplied no man-made fiber work gloves to the United States in 1982. This is a sharp and substantial increase in imports which, if continued, creates a real threat of market disruption.

U.S. production of Category 631pt. gloves has declined 32 percent in the past three years, from 694,000 dozen pairs in 1981 to 470,000 dozen pairs in 1983. Imports, on the other hand, increased 155 percent from 1,070,000 dozen pairs in 1981 to 2,736,000 dozen pairs in 1983.

[FR Doc. 84-22043 Filed 8-17-84; 8:45 am]

BILLING CODE 3510-DR-M

## Announcing Import Limits for Certain Man-Made Fiber Textile Products, Produced or Manufactured in Taiwan

August 15, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 21, 1984. For further information contact Gordana Slijepcevic, International Trade Specialist (202) 377-4212.

### Background

Under the terms of the bilateral agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Taiwan, the United States Government has decided to control imports of man-made fiber sewing thread in Category 605pt. (only TSUSA 310.9140), produced or manufactured in Taiwan and exported during 1984. This letter to the Commissioner of Customs which follows this notice further amends the directive of December 13, 1983 to establish this control limit of 935,151 pounds.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

August 15, 1984.

Commissioner of Customs,

*Department of the Treasury, Washington, D.C. 20229*

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 13, 1983 concerning imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan.

Effective on August 21, 1984, the directive of December 13, 1984 is hereby further amended to include a twelve-month restrain limit of 935,151 pounds for man-made fiber textiles in Category 605pt. (only T.S.U.S.A. 310.9140).

Textile products in Category 605pt. (only T.S.U.S.A. 310.9140) which have been exported to the United States prior to January 1, 1984 shall not be subject to this directive.

Textile products in Category 605pt. (only T.S.U.S.A. 310.9140) which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The action taken with respect to the authorities in Taiwan and with respect to imports of man-made fiber textiles from Taiwan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 84-22044 Filed 8-17-84; 8:45 am]

BILLING CODE 3510-DR-M

# DEPARTMENT OF DEFENSE

## Office of the Secretary

## Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, September 4, 1984; Tuesday, September 11, 1984; Tuesday, September 18, 1984; and Tuesday, September 25, 1984 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Installations and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c) (4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, D.C. 20301.

Dated: August 14, 1984.

**Darlene C. Scott,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 84–22001 Filed 8–17–84; 8:45 am]

BILLING CODE 3810–01–M

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## Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been changed as follows: The 7 August 1984 meeting has been rescheduled to: Tuesday, 28 August 1984, INCA Program Office, McLean, VA.

The entire meeting, commencing at 1,300 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Intelligence Communications Architecture.

Dated: August 14, 1984.

**Darlene C. Scott,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 84–22000 Filed 8–17–84; 8:45 am]

BILLING CODE 3810–01–M

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## Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., 12 September 1984 in OSD Conference Room 1E801 #1, The Pentagon, and from 9:30 a.m. to 12:00 noon, 13 September 1984 in OSD Conference Room 1E801 #7, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to review the recommendations/requests for information/continuing concerns made at the 1984 Spring Meeting, discuss current issues relevant to women in the Services, and plan the itinerary/program for the next Semiannual Meeting scheduled for 13–17 November 1984 in Pensacola, Florida.

Persons desiring to (1) attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the Meeting must contact Captain Marilla J. Brown, Executive Secretary, DACOWITS, OASD (Manpower, Installations, and Logistics), Room 3D769, The Pentagon, Washington, D.C. 20301, telephone (202) 697–2122 no later than 29 August 1984.

Dated: August 15, 1984.

**Darlene C. Scott,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 84–22055 Filed 8–17–84; 8:45 am]

BILLING CODE 3810–01–M

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## DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session on September 13–14, 1984 at Palisades Institute for Research Services, Inc., 1215 Jefferson Davis Highway, Suite 1203—Crystal Gateway #3, Arlington, Virginia, 22202.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited ot review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App II section 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: August 15, 1984.

**Darlene C. Scott,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 84–22056 Filed 8–17–84; 8:45 am]

BILLING CODE 3810–01–M

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## Department of the Air Force

## USAF Scientific Advisory Board; Meeting

August 13, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on the Military Aerospace Platform will meet in the Pentagon, Washington, DC on September 13–14, 1984.

The purpose of the meeting is to review the historical evolution of programs leading to the military aerospace platform concept, operational command requirements and constraints on space missions, related development programs, and contractor design programs. The meeting will convene from 8:00 a.m. to 5:00 p.m. on September 13 and 8:00 a.m. to 1:00 p.m. on September 14.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) and (4) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

**Harry C. Waters,**

*Alternate Air Force Federal Register Liaison Officer.*

[FR Doc. 84–22052 Filed 8–17–84; 8:45 am]

BILLING CODE 3910–01–M

## DEPARTMENT OF EDUCATION

### Office of Elementary and Secondary Education

### Application; New Projects; Fiscal Year 1985; Indian Education Act; Part A, Indian-Controlled Schools, Enrichment

**AGENCY:** Department of Education.

**ACTION:** Application Notice for New Projects for Fiscal Year 1985.

Applications are invited for new projects under the Indian Education Act—Indian-Controlled Schools—Enrichment Program.

Authority for this program is contained in section 303(b) of Part A of the Act, as amended.

(20 U.S.C. 241bb(b))

The purpose of the enrichment grants is to provide financial assistance for educational enrichment projects designed to meet the special educational and culturally related academic needs of Indian children in elementary and secondary schools for Indian children that are located on or geographically near one or more reservations.

Grants for enrichment projects may be to Indian tribes, Indian organizations, and local educational agencies that have been in existence not more than three years.

*Closing date for transmittal of applications:* An application for a new grant must be mailed or hand delivered by November 26, 1984.

*Applications delivered by mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.072A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

*Applications delivered by hand:* An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

*Program information:* In Fiscal Year (FY) 1984, approximately 31 enrichment projects were awarded grants totaling $4,500,000. The average grant amount was $145,161.

*Available funds:* The President's budget request for FY 1985 was for $4,500,000 for this program. The Congress has not passed the FY 1985 appropriation act covering this program. The FY 1985 budget request estimated that approximately 30 projects would be supported and the average grant would be $150,000.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

*Application forms:* Application packages are expected to be ready for mailing on September 21, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education, (Room 2177, FOB 6), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1810-0021).

*Applicable regulations:* The regulations that apply to this program include the following:

(a) Regulations governing Indian Education Programs (34 CFR Parts 250 and 253).

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

*Further information:* For further information contact Dr. O. Ray Warner, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-8236.

(20 U.S.C. 241bb(b))

(Catalog of Federal Domestic Assistance No. 84.072A; Part A—Indian-Controlled Schools—Enrichment)

Dated: August 15, 1984.

**Lawrence F. Davenport,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 84-22031 Filed 8-17-84; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER84-584-000]**

### Central Power & Light Co.; Filing

August 14, 1984.

The filing Company submits the following:

Take notice that on August 7, 1984, Central Power & Light Company (Central) tendered for filing a 1984 Transmission Services Agreement (Agreement) between Central and Houston Lighting and Power Company (HL&P). Accompanying the Agreement is the Rate schedule change (designated TS No. 66) revised, supplement No. 4 and a cost of service study.

Central requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20406, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests

should be filed on or before August 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-21973 Filed 8-17-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP84-614-000]**

## Columbia Gas Transmission Corp.; Request Under Blanket Authorization

August 14, 1984.

Take notice that on July 27, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-614-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of AGG ROK Materials, Division of WAPAK Sand and Gravel Company (AGG), under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia proposes to transport up to 600 dt equivalent of natural gas per day for AGG through June 30, 1985. Columbia states that the gas to be transported would be purchased from Ohio Gas Marketing Corporation (OGM) and would be used as process gas in AGG's Columbus, Ohio, plant.

It is indicated that Columbia has released certain gas supplies of OGM and that these supplies are subject to the ceiling price provisions of sections 103 and 107 of the Natural Gas Policy Act of 1978. Columbia states that it would receive the gas at existing delivery points on its system from OGM and redeliver the gas to Columbia Gas of Ohio, Inc. (COH), the distribution company serving AGG, near Columbus, Ohio. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission, and gathering charge, currently 44.93 cents per dt equivalent exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas, as set forth in Rate Schedule TS-1 of Columbia's FERC Gas Tariff, Original Volume No. 1-A. Columbia also states that it would collect the GRI funding unit charge of 1.21 cents per dt.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-21974 Filed 8-17-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER84-577-000]**

## Consumers Power Co.; Contract Filing

August 14, 1984.

The filing Company submits the following:

Take notice that Consumers Power Company ("Consumers") on August 1, 1984, tendered for filing Consumers' Supplemental Agreement No. 5 to the Coordinated Operating Agreement with Wolverine Power Supply Cooperative, Inc., the City of Grand Haven, Michigan, the City of Traverse City, Michigan and the City of Zeeland, Michigan (hereinafter collectively referred to as the "MCP members") dated as of January 1, 1982.

Supplemental Agreement No. 5 adds a new schedule, Service Schedule F—Specific Capacity and Energy available from surplus capacity on the other party's system for a period of not less that five nor more that twelve calendar months.

The extent and use of Specific Capacity and Energy among the parties for the next twelve months is not known at the present time as such transactions will only be scheduled from time to time as load and capacity conditions on either system dictate. Accordingly, it is not possible to estimate the transactions for such period.

Consumers Power states that copies of the filing were served on the MCP members and on the Michigan Public Service Commission.

Consumers requests an effective date of July 1, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-21975 Filed 8-17-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP84-534-000]**

## National Fuel Gas Supply Corp.; Request Under Blanket Authorization

August 14, 1984.

Take notice that on July 2, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-534-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas on behalf of Wheatland Tube Company (Wheatland) under the authorization issued in Docket No. CP83-4-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Supply proposes to transport up to 800 Mcf natural gas per day for Wheatland for a term from October 10, 1984, to June 30, 1985. It is said that Supply would receive the gas at existing points of receipt in Erie County, New York, and redeliver to National Fuel Gas Distribution Corporation (Distribution) for ultimate delivery to Wheatland. It is said further that the gas to be transported would be purchased from American Penn Energy,

Inc. (American), and would be used for industrial furnaces, space heater, water heaters, melting equipment and miscellaneous furnaces in Wheatland's Wheatland, Pennsylvania, plant.

Supply states that it has released certain gas supplies of American. It is stated that these supplies are subject to the ceiling price provisions of section 107 and 108 of the Natural Gas Policy Act of 1978. It is further indicated that Wheatland has purchased this released gas from American. Further, Supply states that it would charge its rate Schedule T-2 transmission charge, currently 31.72 cents per Mcf which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage. In addition, the current transportation rate charged by Distribution is 56.0 cents per Mcf plus a state tax adjustment surcharge plus 2.5 percent of the gas for loss allowance in accordance with Distribution's Pennsylvania Tariff, it is asserted.

Any person or the Commission's staff may, within 45 days after issuance of the instant noitce by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-21976 Filed 8-17-84; 8:45 am]

BILLING CODE 6717-01-M

## Federal Energy Regulatory Commission

**[Docket No. CP84-596-000]**

## Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

August 14, 1984.

Take notice that on July 23, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251, filed in Docket No. CP84-596-000 a request, as supplemented July 31, 1984, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Panhandle proposes to add a new delivery point and to reassign volumes of gas to be delivered to Indiana Gas Company, Inc. (Indiana Gas), from one delivery point to the proposed new point and to another existing delivery point under authorization issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle states that it has entered into gas sales contracts with Indiana Gas dated May 14, 1984, June 12, 1984, and July 6, 1984, which provide for, among other things, for deliveries to Indiana Gas as follows:

| Point of delivery | Existing maximum daily delivery obligation (Mcf) | Proposed maximum daily delivery obligation (Mcf) |
|---|---|---|
| King | 55,125 | 48,525 |
| Tipton | 5,500 | 12,000 |
| Cumberland Road Station | | 100 |

Panhandle also states that the volumes of gas to be delivered to the new delivery point at Cumberland Road Station would be used to serve a public school initially and eventually for residential use.

Panhandle submits that the proposed change in service for Indiana Gas would not result in any increase in peak day or annual entitlements for natural gas service nor adversely affect Panhandle's ability to meet the requirements of its customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-21977 Filed 8-17-84; 8:45 am]

BILLING CODE 6717-01-M

## Office of Civilian Radioactive Waste Management

## Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities

Date and time: September 5—8:30 a.m.–5:00 p.m. September 6—8:30 a.m.–5:00 p.m.

Place: Holiday Inn North (formerly Holiday Inn-Airport), 77 NE. Loop, San Antonio, Texas

Contact: Harold H. Brandt, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 252-1652

Purpose of the panel: To study and report to the Department of Energy on alternative approaches to managing the construction and operation of civilian radioactive waste facilities, pursuant to section 303 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425). The Panel's report will include a thorough and objective analysis of the advantages and disadvantages of each alternative approach, but will not address the specific siting of radioactive waste facilities.

Tentative agenda:

- Organizational Recommendations.
- Financing Alternatives.
- Work Plan/Timetable.
- Public Comment (10 Minute Rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Harold Brandt at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., Between 8:30 a.m.

and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 14, 1984.

**Howard H. Raiken,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 84-21972 Filed 8-17-84; 8:45 am]

BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

[Docket No. QF84-422-000]

### Zond-PanAero Windsystem Partners I; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

*Correction*

FR Doc. 84-21419 appearing on page 32256 in the issue of Monday, August 13, 1984, was carried under a Federal Reserve System heading. The document was submitted by the Federal Energy Regulatory Commission. Therefore, the heading should have appeared as set forth above.

BILLING CODE 1505-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-2656-4]

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget for review. The ICR describes the nature of the solicitation and the expected impact, and, where appropriate, includes the actual data collection instrument. The following ICRs are available to the public for review and comment.

**FOR FURTHER INFORMATION CONTACT:** Martha Chow; Office of Standards and Regulations; Regulation and Information Management Division (PM-223); U.S. Environmental Protection Agency; 401 M Street, SW., Washington, DC 20460; telephone (202) 382-2742 or FTS 382-2742.

**SUPPLEMENTARY INFORMATION:**

**Pesticides Programs**

• Title: Registration of Pesticides Under Section 3 of FIFRA (EPA #0277).

Abstract: Anyone planning to market a pesticide must apply for registration by submitting information on chemical composition, identity, labeling and safety. EPA will use this information to determine if the pesticide complies with all Agency registration requirements.

Respondents: Pesticide producers and distributors.

• Title: Notification of Unreasonable Adverse Effects (EPA #1204).

Abstract: Registrants of pesticides must provide EPA with any new information about adverse effects of pesticides. The Agency will use the information to identify potential health and environmental concerns.

Respondents: Pesticide manufacturers and processors.

**Agency PRA Clearance Requests Completed by OMB**

EPA #0004, Pretreatment Removal Credit Approval Request, was approved 3 June 1984 (OMB #2040-0020)

EPA #0007, State Pretreatment Program Approval Request, was approved 3 June 1984 (OMB #2040-0019)

EPA #0309, Fuel Additive Manufacturer Notification, was approved 9 July 1984 (OMB #2000-0011)

EPA #0314, Fuel Manufacturer Notification for Motor Vehicle Fuel, was approved 9 July 1984 (OMB #2000-0283)

EPA #0586, Preliminary Assessment Information—Manufacturers Reporting, was approved 25 May 1984 (OMB #2000-0420)

EPA #0594, State Plans to Issue Experimental Use Permits at the State Level, was approved 23 July 1984 (OMB #2070-0001)

EPA #0595, Section 24(C) Special Local Needs Registration, was approved 31 July 1984 (OMB #2000-0425)

EPA #0821, Pretreatment Categorical Determination Request, was approved 3 June 1984 (OMB #2040-0015)

EPA #1038, Procurement Solicitations (RFPS & IFBS), was approved 5 July 1984 (OMB #2080-0005)

EPA #1169, Questionnaire to Obtain Bidding and Contractual Data Under EPA Construction Grants, was approved 20 June 1984 (OMB #2090-0010)

Comments on all parts of this notice should be sent to:

Martha Chow (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, Regulation & Information Management Division, 401 M Street, SW., Washington, D.C. 20460, and

Carlos Tellez, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503

Dated: August 14, 1984.

**Daniel J. Fiorino,**

*Acting Director, Regulation and Information Management Division.*

[FR Doc. 84-22008 Filed 8-17-84; 8:45 am]

BILLING CODE 6560-50-M

[FRL 2656-5]

### Nonconformance Penalty Negotiated Rulemaking Advisory Committee; Meeting

As required by the Federal Advisory Committee Act (Pub. L. 94-463), we are giving notice of the next meeting of the Nonconformance Penalty Negotiated Rulemaking Advisory Committee.

It will be held in Washington, D.C., from 9:00 a.m. until 3:30 p.m. on Wednesday, September 5th, at the offices of the National Institute for Dispute Resolution (NIDR) located at 1901 L Street, NW., Suite 600. The purpose of the meeting is to continue to work toward consensus on the identified issues involved in establishing nonconformance penalties.

If interested in attending or receiving more information, please contact Chris Kirtz at (202) 382-7565.

**Milton Russell,**

*Assistant Administrator for Policy, Planning and Evaluation.*

[FR Doc. 84-22076 Filed 8-17-84; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-716-DR]

### Nebraska; Amendment to Notice of a Major-Disaster Declaration

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the Notice of a major disaster for the State of Nebraska (FEMA-716-DR), dated July 3, 1984, and related determinations.

**DATED:** August 13, 1984.

**FOR FURTHER INFORMATION CONTACT:** Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice: The notice of a major disaster for the State of Nebraska, dated July 3, 1984, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 3, 1984:

Gage and Washington Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

**Samuel W. Speck,**

*Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.*

[FR Doc. 84-21980 Filed 8-17-84; 8:45 am]

BILLING CODE 6718-02-M

## FEDERAL RESERVE SYSTEM

### Applications To Engage de Novo, in Permissible Nonbanking Activities; RIHT Financial Corp., et al

*Correction*

FR Doc. 84-21336 beginning on page 32256 in the issue of Monday, August 13, 1984, appeared under a Federal Maritime Commission heading. The document was submitted by the Federal Reserve System. Therefore, the heading should have appeared as set forth above.

BILLING CODE 1505-01-M

### Chittenden Corporation, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1)) of the Board's Regulation Y (12 CFR 225.23(a)(1) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 9, 1984.

**A. Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Chittenden Corporation*, Burlington, Vermont; to engage *de novo* through its subsidiary, Chittenden Realty Credit Corporation, Burlington, Vermont, in the making of direct loans to customers to acquire or to finance the construction of one-to-four family dwellings secured by valid first liens on related real property. This application is also for the expansion of the geographic scope of the activities which would be conducted on a nationwide basis.

2. *Old Stone Corporation*, Providence, Rhode Island; to engage *de novo* through its subsidiaries The Motor Life Insurance Company, Jacksonville, Florida, in underwriting, through reinsurance, the risk-related to credit life and credit health and accident insurance written in connection with extensions of credit made by an affiliated bank holding company subsidiary, UniMortgage of Nevada. These activities would be conducted in the State of Nevada.

**B. Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Merchant National Corporation*, Indianapolis, Indiana; to engage *de novo* through its subsidiary, Merchants Mortgage Corporation in Indianapolis, Indianapolis, Indiana, in mortgage banking activities including originating mortgages on single and multi-family residential and commercial nonresidential properties; selling the mortgages to permanent investors, servicing the loans and assisting developers and builders in obtaining construction loans and other types of development loans. This application is for the expansion of the geographic scope of these activities beyond the State of Indiana, into the States of Michigan, Ohio, Kentucky, Illinois, and Wisconsin.

**C. Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation*, Los Angeles, California; to engage *de novo* through its subsidiary, Clifford Drake & Company, New York, New York, in providing brokerage services to municipal bond dealers including municipal bond brokers and banks. These municipal bond brokerage services are and will be restricted to buying and selling securities solely as agent for the account of customers, and do not and will not include dealing or investment advice or research services. These services are and will be provided nationwide through two offices located in New York and California.

Board of Governors of the Federal Reserve System, August 14, 1984.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 84-22012 Filed 8-17-84; 8:45 am]

BILLING CODE 6210-01-M

### Factory Point Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The Companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR § 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications

must be received not later than September 12, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Factory Point Bancorp, Inc.*, Manchester Center, Vermont; to become a bank holding company by acquiring 100 percent of the voting shares of the Factory Point National Bank of Manchester Center, Manchester Center, Vermont.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Citizens Bancshares, Inc.*, Salineville, Ohio; to acquire 100 percent of the voting shares of The Union Commercial Savings Bank, East Palestine, Ohio.

C. **Federal Reserve Bank of Chicago** (Frankin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Pontiac Bancorp, Inc.*, Pontiac, Illinois; to acquire 100 percent of the voting shares of Odell State Bank, Odell, Illinois.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Dundas Holding Company, Inc.*, Dundas, Minnesota; to become a bank holding company by acquiring 95.06 percent of the voting shares of Dundas State Bank, Dundas, Minnesota.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missorui 64190:

1. *First Company*, Powell, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of Lovell National Bank, Lovell, Wyoming, a *de novo* bank.

Board of Governors of the Federal Reserve System, August 14, 1984.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 84-22011 Filed 8-17-84; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Alcohol, Drug Abuse, and Mental Health Administration

### Support for Child and Adolescent Mental Health Research and Research Training; Correction

**AGENCY:** The National Institute of Mental Health, HHS.

**ACTION:** Issuance of Program Announcement for Support for Child and Adolescent Mental Health Research and Research Training; Correction.

This document corrects the telephone number of Dr. Michael E. Fishman which was incorrectly listed when this Notice was originally published on July 27, 1984 (49 FR 30245). The National Institute of Mental Health is encouraging applications for support of research training in child and adolescent mental health and mental and emotional disorders. Support is available in any of the following areas: Epidemiology; clinical studies; treatment, services, and prevention research; the behavioral sciences; and the neurosciences.

*Receipt and review date of applications:* Applications will be accepted and reviewed according to the usual Public Health Service schedule and procedures. Specific dates are given in the Program Announcement.

*For further information or a copy of the announcement, contact:* Michael E. Fishman, M.D., Assistant Director for Children and Youth, National Institute of Mental Health, Room 17C-20, Parklawn Building, 5600 Fishers Lane, Rockville Lane, Rockville, Maryland 20857, (Telephone: 301-443-5480).

**Donald Ian Macdonald,**

*Administrator, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 84-22046 Filed 8-17-84; 8:45 am]

BILLING CODE 4160-20-M

## Health Care Financing Administration

[OMB-003-N ]

### Medicare and Medicaid Programs; Office of Management and Budget Request for Review of Reporting and Recordkeeping Requirements

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of OMB Action on Information Collection Requirements.

**SUMMARY:** As a result of reviews performed under the authority of the Paperwork Reduction Act of 1980, the Office of Managment and Budget has directed that HCFA revise selected collection of information requirements in HCFA regulations. This notice informs the public of OMB's decision and states our intention to develop notices of proposed rulemaking: (1) To change the regulations and (2) to solicit comments on the information collection requirements. Consistent with the provisions of 5 CFR 1320.14 OMB has granted continued approval of the current collection of information requirements for a limited time.

**FOR FURTHER INFORMATION CONTACT:** Frank Burns, (301) 594-8651.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Paperwork Reduction Act of 1980 (44 U.S.C. 3507) establishes policies and procedures for controlling paperwork burdens imposed by Federal agencies on the public. In regulations at 5 CFR 1320.14, effective May 2, 1983, the Office of Management and Budget (OMB) set forth procedures for its review of information requirements contained in existing regulations that had not been previously reviewed by OMB or the General Accounting Office.

In accordance with an agreed-upon schedule, HCFA identified and submitted for review a number of items for approval. (Approval results in assignment of a control number, listed at 42 CFR 400.310.) OMB has exercised its authority under 5 CFR 1320.14(f) and directed that we initiate proposals to change certain requirements. In such instances OMB's procedures require Federal agencies to publish a notice in the **Federal Register** informing the public of these proposed changes in the collection requirements and that OMB has approved the information requirements for a limited period of time. (This process is described in OMB regulations, 5 CFR 1320.14(f).)

In its review of information collection requirements in the regulations identified below, OMB has directed that we initiate proposals for change and has notified us of this decision. As a result, we are publishing this notice to so inform the public and to state that OMB has granted limited continued approval of the questioned requirements.

#### Information Collections in Question

The following information collection requirements are proposed for elimination or change:

*A. 42 CFR Part 405, Subpart D*

42 Section 405.460(f)(9)(iv) requires a hospital to submit discharge data, in the format required by HCFA, for Medicare discharges in the cost reporting period for which the exception is requested.

The requirement may be obsolete under the prospective payment system.

*B. 42 CFR Part 405, Subpart N*

Section 405.1413(c) requires employee records of providers of portable X-ray services to include a resume of each employee's training and experience and evidence of health supervision of employees; it specifies what the evidence includes.

The requirements may be overly prescriptive. We may limit the specification of records in this instance to a broad requirement that provider personnel records be adequate to demonstrate compliance with the personnel standards in the regulation.

*C. 42 CFR Part 405, Subpart Q*

Section 405.1716(c) requires personnel practices of a provider of outpatient physical therapy or speech pathology services to be supported by appropriate written personnel policies and specifies what personnel records include.

Section 405.1716(d) requires that patient care practices and procedures are supported by written policies that are specified in the regulation.

Section 405.1717(b) requires that each patient's written plan of care include anticipated goals and specifies the type, amount, frequency, and duration of physical therapy or speech pathology services.

Section 405.1717(e) requires an organization to have one or more physicians available on call to provide medical care in case of emergency and specifies that a schedule listing the names and telephone numbers of these physicians and the specific days each is on call must be posted.

Section 405.1725(a), which concerns disaster plans, specifies what a disaster plan must include to be considered acceptable.

Section 405.1733(b) requires that the written plan of care established by the physician must indicate anticipated goals and specify the type, amount, frequency, and duration of physical therapy services.

These requirements may be too prescriptive.

*D. 42 CFR Part 434*

Section 434.27(a)(3) requires that health maintenance organization (HMO) and prepaid health plan (PHP) contracts in the Medicaid program specify that each termiantion of a recipient's enrollment be submitted for approval by the Medicaid State agency.

Section 434.36 requires an HMO of PHP contract to provide for submitting marketing plans, procedures and materials to the Medicaid State agency for approval before using the plans.

Section 434.55 requires a Medicaid State agency to provide written requirements for approval of the HMOs' and PHPs' marketing plans, procedures and materials.

The requirement for Medicaid State agency review of individual HMO terminations and marketing requirements may be excessively prescriptive and States should be given the flexibility to determine the need for such reviews.

After reviewing comments we receive on this notice, we will, within 120 days, issue a notice or notices of proposed rulemaking modifying these collection requirements.

(Sec. 1102 of the Social Security Act, 42 U.S.C. 1302; 5 CFR 1320.14(f))

(Catalog of Federal Domestic Asssistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance; No. 13.714, Medical Assistance)

Dated: August 10, 1984.

**Carolyne K. Davis,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 84-22054 Filed 8-17-84; 8:45 am]

BILLING CODE 4120-03-M

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## Public Health Service and Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, as amended most recently in pertinent parts at 43 FR 16419, April 18, 1978 and 45 FR 33729, May 20, 1980) is amended to reflect transfer of the procurement function from the Division of Management Services to the Division of Contracts and Grants Management in the Office of Management and Operations in the Office of the Commissioner. Centralization of the Agency's procurement authorities in one location is in accordance with the Office of the Secretary's designation of the Director, Division of Contracts and Grants Management as the Principal Official Responsible for Acquisitions.

Section HF-B, Organization and Functions, is amended as follows: 1. Delete paragraph (h-2) Division of Management Services (HFA75) and replace with new paragraph (h-2) Division of Management Services (HFA75), reading as follows:

(h-2) Division of Management Services (HFA75). Provides leadership and guidance to Headquarters staff offices, Headquarters operating activities, and field activities for all management services programs including: Personal property management and accountability, real property management, space management and utilization, construction and engineering services, communications, graphic arts, printing and reproduction, microform management, and mail and files.

Develops and conducts management programs in directives management, reports and forms management, records and correspondence management, and other management areas as assigned.

Responsible for maintaining effective liaison with the Government Printing Office and for the centralized clearance and coordination of all printing and publication services.

Coordinates the development of Agencywide policies and procedures for such services; plans, executes, evaluates, and adjusts efforts in these activities.

2. Delete paragraph (h-6) Division of Contracts and Grants Management (HFA78) and replace with new paragraph (h-6) Division of Contracts and Grants Management (HFA78), reading as follows:

(h-6) Division of Contracts and Grants Management (HFA78). Provides leadership, direction, and staff advisory services for the FDA acquisitions and grants management programs. Coordinates activities of FDA centers and offices to insure proper development of grants and contracts program requirements.

Plans, develops, and coordinates the issuance of FDA-wide acquisition policies and procedures.

Serves as the Agency focal point for developing, coordinating, and implementing FDA policies and procedures pertaining to grants management; serves as the primary point of liaison with the management staff of grantee institutions for the general interpretation of grants management policies.

Directs and coordinates all administrative functions associated with grants and cooperative agreements management. Directs and conducts negotiations with grantee institutions.

Collaborates with program offices in development of extramural spending plans; manages and directs all administrative functions associated with all acquisitions of research and development and other products and services.

Provides advisory service to program and management personnel in business and administrative matters related to acquisitions, grants, cooperative agreements, interagency agreements, and memoranda of understanding; executes all administrative determinations and award instruments for negotiated contracts, grants, interagency agreements, cooperative agreements, and memoranda of understanding.

Provides representation on HHS, PHS, FDA, and other Government study groups and committees concerned with contracts and grants management and administration.

Analyzes, evaluates, and reports selected statistical and financial data pertaining to the grants and contracts program.

Maintains liaison with the PHS Office of Management on contracts and grants management policy and procedural and operating matters; serves as FDA focal point for the processing of audit reports and for liaison with the HHS Office of Inspector General.

Provides price/cost analysis and related services for contracts and grants.

Dated: August 8, 1984.

**E.N. Brandt, Jr.,**

*Assistant Secretary for Health.*

[FR Doc. 84-22006 Filed 8-17-84; 8:45 am]

BILLING CODE 4110-03-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[R 617, R 697, R 1327, R 1658, R 2231, R 2637, R 3342, S 487, S 567, S 572, S 856, S 857, and S 2577]**

### California; Termination of Classifications of Public Land for Multiple Use Management

*Correction*

In FR Doc. 84-18802 beginning on page 28932 in the issue of Tuesday, July 17, 1984, make the following correction:

On page 28933, first column, line 24, "R 487" should read "S 487".

BILLING CODE 1505-01

**[C-38719]**

### Colorado; Invitation for Coal Exploration License Application; Getty Coal Company; Correction

Please make the following correction to the Notice of Invitation published Monday, August 6, 1984, page 31344, third column (FR Doc. 84-20706): The street address for Getty Coal Company should read 5250 South 300 West instead of 5280 South 30 West.

**Evelyn W. Axelson,**

*Chief, Mineral Leasing Section.*

[FR Doc. 84-22051 Filed 8-17-84; 8:45 am]

BILLING CODE 4310-JB-M

### New Mexico; Filing of Plat of Survey

August 10, 1984.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on August 9, 1984.

**New Mexico Principal Meridian**

The survey of lots 7 through 19 in section 29 and lot 20 in section 32, T. 29 N., R. 13 E., NMPM, under Group 779 NM and was accepted July 24, 1984.

A dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the subdivision of sections 13, 17, 18, 19, 20, 23, 24, 25 and 35, T. 16 S., R. 14 E., NMPM, under Group 810 NM and was accepted August 2, 1984.

This survey was executed to meet certain administrative needs of this Bureau.

The plat will be placed in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

**Gary S. Speight,**

*Chief, Branch of Cadastral Survey.*

[FR Doc. 84-22053 Filed 8-17-84; 8:45 am]

BILLING CODE 4310-FB-M

### Minerals Management Service

### Development Operations Coordination Document; Samedan Oil Corp.

**AGENCY:** Minerals Management Service.

**ACTION:** Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

**SUMMARY:** Notice is hereby given that Samedan Oil Corporation has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 6085 and 6086, Blocks A-52, and A-53, Brazos Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Freeport and Houston, Texas.

**DATE:** The subject DOCD was deemed submitted on August 7, 1984.

**ADDRESSES:** A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

**FOR FURTHER INFORMATION CONTACT:** Ms. Angie Gobert; Minerals Management Service, Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

**SUPPLEMENTARY INFORMATION:** The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: August 8, 1984.

**John L. Rankin,**

*Regional Manager, Gulf of Mexico OCS Region.*

[FR Doc. 84-21997 Filed 8-17-84; 8:45 am]

BILLING CODE 4310-MR-M

### Development Operations Coordination Document; Total Petroleum, Inc.

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

**SUMMARY:** Notice is hereby given that Total Petroleum, Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5692, Block 65, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

**DATE:** The subject DOCD was deemed submitted on August 13, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

**ADDRESSES:** A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Matairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State

Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

**FOR FURTHER INFORMATION CONTACT:** Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

**SUPPLEMENTARY INFORMATION:** The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: August 13, 1984.

**John L. Rankin,**

*Regional Manager, Gulf of Mexico OCS Region.*

[FR Doc. 84-22050 Filed 8-17-84; 8:45 am]

BILLING CODE 4310-MR-M

## National Park Service

### Sleeping Bear Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Sleeping Bear Dunes National Lakeshore Advisory Commission will be held at 9 a.m. (EDT), September 14, 1984, at the Glen Arbor Township Hall on Michigan Highway 22 in Glen Arbor, Michigan.

The Commission was established by the Act of October 21, 1970, 84 Stat. 1076, 16 U.S.C. 460x-3, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Sleeping Bear Dunes National Lakeshore and with respect to the provisions of Sections 9 (zoning bylaws), 12 (scenic roads), and 13 (commercial properties), of this Act.

The members of the Commission are as follows:

Mr. John B. Daugherty (Chairman)
Mr. Sidney Evans
Dr. T. Cline
Mr. George T. Schilling
Mr. William B. Bolton
Mr. Lawrence J. Verdier
Dr. Michael Chubb
Mr. Robert Athey
Ms. Sylvia B. Kruger
Mr. George Weeks

The agenda for the meeting will include discussion of the docking location assessment for the Manitou Islands' ferry, acquisition and operation of North Manitou Island, current legislative actions, and Land Protection Plan implementation.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Richard R. Peterson, Superintendent, Sleeping Bear Dunes National Lakeshore, Frankfort, Michigan 49635, telephone (616) 352-9611.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of Sleeping Bear Dunes National Lakeshore, Frankfort, Michigan.

**Charles H. Odegaard,**

*Regional Director, Midwest Region.*

[FR Doc. 84-22047 Filed 8-17-84; 8:45 am]

BILLING CODE 4310-70-M

## INTERSTATE COMMERCE COMMISSION

**[Decision No. 17; Finance Docket No. 30400; Sub-No. 20]**

### Railroad Services; Denver and Rio Grande Western Railroad Co. Trackage Rights and Acquisition; Over Southern Pacific Transportation Co.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Application accepted for consideration.

**SUMMARY:** The Commission is accepting for consideration the application of the Denver and Rio Grande Western Railroad Company (DRGW) for trackage rights over and acquisition of (or in the alternative trackage rights over) certain lines of the Southern Pacific Transportation Company (SPT) in California, Nevada, Oregon, and Utah. This application is filed as a proposed condition to the proposed merger between the SPT and the Atchison, Topeka and Santa Fe Railway Company (ATSF). A schedule has been set for consideration of this application.

**DATES:** Written comments must be filed with the Interstate Commerce Commission by October 1, 1984. Oral hearing in this consolidated proceeding will begin October 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Ellen A. Goldstein (202) 275-7969.

**ADDRESSES:** An original and 10 copies of all comments referring to Finance Docket No. 30400 (Sub-No. 20) should be filed with: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

One copy of all comments should also be filed with: Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

**SUPPLEMENTARY INFORMATION:** DRGW currently operates over 1,800 miles of track from Denver and Pueblo, CO to Salt Lake City and Ogden, UT, and has trackage rights between Pueblo and Kansas City, MO.

On July 19, 1984, DRGW filed this responsive application as proposed conditions to the application in Finance Docket No. 30400 and embraced cases. In those proceedings the Santa Fe Southern Pacific Corporation (SFSP) is seeking authority to control SPT, for the merger of ATSF and SPT, and related transactions. Notice of those applications was published in the **Federal Register** on April 20, 1984, at 49 FR 16881. The trackage rights and acquisitions sought by DRGW in Finance Docket No. 30400 (Sub-No. 20) involve a portion of the SPT lines sought to be controlled and merged by SFSP.

By statute and regulation, responsive applications were due to be filed July 19, 1984 [49 U.S.C. 11345(b)(2); and 49 CFR 1180.4(d)(4).] We granted DRGW an extension of time to complete its application by September 10, 1984 (decision served July 23, 1984). Supporting financial information, environmental and energy data, market impact analysis, operating plans, labor impact, and verified statements must be filed by that date.

A summary of the proposed conditions follows:

(1) DRGW seeks fee ownership [1] of the following SPT lines: Ogden, UT-

[1] In the alternative, DRGW seeks trackage rights over these lines.

Winnemucca, NV; Winnemucca, NV-Klamath Falls, OR; [2] Winnemucca, NV-Roseville, CA; Wendel-Susanville, CA; Alturas, CA-Lakeview, OR; Hazen-Fallon, NV; and Hazen-Mina, NV.

(2) DRGW seeks unrestricted trackage rights over (or an alternate means of serving) the following SPT lines: Klamath Falls-Portland, OR; Roseville-Sacramento-Oakland, CA via Davis and Fairfield, CA (to provide a continuous through route between Oakland and Roseville via Davis); Roseville-Fresno, CA, via Galt, Lathrop and Modesto, CA; Oakland-Niles, CA, via Hayward, CA; Lathrop-Tracy, CA; Niles-San Jose, CA (including Lick, Luther Branch and Maybury Branch and other areas in the City of San Jose); Davis-Woodland, CA; Benicia Branch, CA; Fairfield-Schellville, CA; Stockton-Oakdale, CA (or, in the alternative, trackage rights over ATSF between Oakdale and Stockton); San Jose-Santa Clara, CA (including a portion of Santa Clara-Agnew line)-Sunnyvale, CA; Elmurst-Mulford, CA; Martinez-Pittsburg, CA (including a portion of Concord-Avon line); Albany-Lebanon-Griggs, OR; Albany-Corvallis-Dallas, OR; Portland-Beaverton, OR; Eugene-Ashland-Belleville, OR (including White City Branch); Eugene-Danebo-Coquille, OR; and Springfield-Hendricks, OR.[3]

The application substantially complies with the applicable regulations, waivers and extensions granted. By September 10th, DRGW must file milepost designations for the lines at issue here. The applications and exhibits are available for inspection in the Public Docket Room at the Offices of the Interstate Commerce Commission in Washington, DC. In addition, they may be obtained from applicant's representatives upon request. Interested persons should request copies of exhibits due September 10th, from applicants representatives, so their comments may reflect the later filed information.

The application is consolidated for disposition with the applications in Finance Docket No. 30400, *et al.* Those applications are the subject of oral hearings conducted by Administrative Law Judge James E. Hopkins commencing October 1, 1984. By statute, the evidentiary phase of these proceedings must end by April 20, 1986. Service of an initial decision will be waived, and determination of the merits of the applications will be made in the first instance by the entire Commission. 49 U.S.C. 11345.

*Participation in the Proceedings: Comments.* Interested persons may participate formally by submitting written comments regarding the applications. Comments should indicate the exact proceeding designation, and an original and 10 copies should be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, DC, 20423, no later than October 1, 1984. One copy should also be sent to the Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC 20423. Comments shall include the following: the person's position in support of or in protest to the proposed transaction, and specific reasons why approval would or would not be in the public interest. *See* 49 CFR 1180.4(d)(1). Interested persons who do not intend to participate formally in the proceeding but who desire to comment may file statements subject to the filing and service requirements specified below. Persons must state specifically whether they intend to actively participate in the oral hearings on the application or whether they wish only to be advised of all decisions issued by the Commission in this proceeding. Failure to state an intention to participate as an active party will result in the person being placed in the later category.

Written comments shall be concurrently served by first-class mail on the Secretary of the Department of Transportation, on the Attorney General of the United States, and on

(1) Applicant's respresentatives:

E. Bareett Prettyman, Jr., Hogan & Hartson, 815 Connecticut Ave., NW., Washington, DC. 20006, and

Samuel R. Freeman, Vice President & General Counsel, Denver and Rio Grande Western Railway Company, P.O. Box 5482, Denver, CO 80217,

and (2) representatives of primary applicants SPT and ATSF:

R. K. Knowlton, Vice President-Law, Santa Fe Southern Pacific Corp., 224 S. Michigan Ave., Chicago, IL 60604

Milton E. Nelson, Jr., General Counsel, The Atchison, Topeka and Santa Fe Railway Co., 224 S. Michigan Ave., Chicago, IL 60604, and

Douglas S. Stephenson, General Attorney, Southern Pacific Transportation Co., One Market Plaza, San Francisco, CA 94105.

Within 10 days of the filing of written comments with the Commission, comments must also be served, by first class mail, on all persons designated active parties of record on the Commission's revised service list, to be issued shortly by the Commission.

*Responsive Applications.* Because this application contains proposed conditions to approval of the applications in Finance Docket No. 30400, *et al.*, the Commission will entertain no requests for affirmative relief to these proposals. Parties may only participate in direct support of or direct opposition to DRGW's applications as filed.

This action will not significantly affect either the quality of the human environment or energy conservation.

*It is ordered:*

1. The application in Finance Docket No. 30400 (Sub-No. 20) is accepted for consideration, subject to the condition that it is completed by the date previously set.

2. The parties shall comply with all provisions as stated above.

3. The decision is effective on the date served.

Decided: August 14, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor was absent and did not participate.

**James H. Bayne,**

*Secretary.*

[FR Doc. 84-22108 Filed 8-17-84; 8:45]

**BILLING CODE 7035-01-M**

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**[Finance Docket No. 30400 (Sub-No. 18); Decision No. 15]**

## Railroad Services; the Kansas City Southern Railway Co. and Louisiana & Arkansas Railway Co.; Trackage Rights, Independent Ratemaking Authority, and Asset Purchases

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Application accepted for consideration.

**SUMMARY:** The Commission is accepting for consideration the application of The Kansas City Southern Railway Company and Louisiana & Arkansas Railway Company (both KCS) for trackage rights over certain lines of Southern Pacific Transportation Company (SPT) and St. Louis Southwestern Railway Company (SSW), for establishment of an independent ratemaking authority pertaining to routes of SPT and Atchinson, Topeka, and Sante Fe Railway Company (ATSF), and for purchase of certain assets. This

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[2] This line includes trackage rights over a 149-mile Western Pacific line between Winnemucca, NV, and Flanigan, NV. DRGW seeks an assignment of trackage rights over this Western Pacific line.

[3] DRGW understands that certain SPT lines referenced in this paragraph—lines that SPT obtained through its acquisition of and subsequent merger with the Central Pacific Railway Company—are subject to a paired-track agreement between SPT and UP. To the extent that such agreement may interfere with the award of the conditions sought by DRGW, DRGW asks the Commission to set the agreement aside pursuant to 49 U.S.C. 11351 and 49 CFR 1180.1(g).

application is filed as proposed conditions to the proposed merger between ATSF and SPT. A schedule has been set for consideration of this application.

**DATES:** Written comments must be filed with the Interstate Commerce Commission by October 1, 1984. Oral hearing in this consolidated proceeding will begin October 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Ellen A. Goldstein (202) 275–7969.

**ADDRESSES:** An original and 10 copies of all comments referring to Finance Docket No. 30400 (Sub-No. 18) should be filed with: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

One copy of all comments should also be filed with: Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

**SUPPLEMENTAL INFORMATION:** KCS currently operates primarily over a north-south route between Kansas City, MO, and the Gulf Ports of New Orleans, LA, and Beaumont/Port Arthur, TX, and an east-west route between New Orleans and Dallas, TX, via Baton Rouge and Shreveport, LA.

On July 19, 1984, KCS filed this responsive application as proposed conditions to the applications in Finance Docket No. 30400 and embraced cases, where the Santa Fe Southern Pacific Corporation (SFSP) seeks authority to acquire control of SPT, to merge SPT and ATSF to form SPSF, and for related transactions. Notice of those applications was published in the **Federal Register** on Apirl 20, 1984, at 49 FR 16881.

By statute and regulation, responsive applications were due to be filed July 19, 1984. [49 U.S.C. 11345 (b)(2); and 49 CFR 1180.4 (d)(4).] We granted KCS an extension of time to complete its application by September 10, 1984 (decision served July 23, 1984). Supporting financial information, environmental and energy data, market impact analysis, operating plan, density charts, and verified statements must be filed by that date.

A summary of the proposal follows:

(1) KCS seeks authority to quote, make, and publish, for its own account, rates for rail transportation services, and to enter with shippers into contracts for the provision of rail transportation services, over routes of the proposal Southern Pacific and Santa Fe Railway Company (SPSF), specifically, (a) the existing ATSF and SPT routes between San Francisco/Oakland, CA area points and Los Angeles/Long Beach, CA area points, via Fresno and Bakersfield, CA, and (b) the existing SPT route between Los Angeles/Long Beach, CA area points and Houston/Galveston, TX. This authority would also apply to connections with short line railroads at points other than those commonly served by ATSF and SPT in cases where the short line has competitive connections with ATSF and SPT. KCS would have access to all shippers served by SPSF at any of the commonly served points.

(2) In conjunction with the independent ratemaking authority, KCS also seeks trackage rights over the SPT line from Avondale, LA, to West Lake, LA, as follows: From the point of beginning of SPT ownership at or near West Bridge Junction (shown as approximately SP M.P. 10.5 in its Division Time Table for its Lafayette Division) to the point of SPT's connection with KCB at Lockmoor (shown as approximately SP M.P. 222.8 in that Division Time Table).

(3) In conjunction with the independent ratemaking authority, KCS seeks trackage rights over the SPT line from Beaumont, TX to Houston, TX, with rights of local access at Houston, as follows: From the point of KCS' connection with SPT at Beaumont (shown as approximately SP M.P. 280.2 in its Division Time Table for its Lafayette Division) to the point of SPT's connection with the track of Houston Belt and Terminal Railway Company ("HB&T") at Houston, near Tower 87 (Tower 87 is shown as approximately SP M.P. 356.8 in its Division Time Table for its Lafayette Division).

(4) In conjunction with the independent ratemaking authority, KCS seeks trackage rights over the SPT line from Houston, TX to Galveston, TX, with rights of local access at Galveston, and the right to purchase the SP line from Texas City, TX to Galveston, TX, which the Primary Applicants propose to abandon, permitting operation as follows:

By trackage rights from the point of SPT's connection with the tracks of HB&T at Houston, near Tower 86 (Tower 86 is shown as approximately SP M.P. 3.6 in its Division Time Table for its Houston Division) to Texas City Junction (shown in said Division Time Table as approximately SP M.P. 46.8). Primary Applicants state their intent, at page 45 of their Operating Plan (Exhibit 13 to their Application), to abandon 8 miles of SPT track between Texas City and Galveston. KCS proposes, as a condition to the merger, that it be allowed to purchase such track designated for abandonment. KCS proposes to operate over such purchased track (Texas City Junction is shown as approximately SP M.P. 46.8 in its Division Time Table for its Houston Division and 8 miles from that point would be approximately SP M.P. 54.8). KCS also seeks the right to operate via trackage rights from the points where its purchased track would end into Galveston (*i.e.*, from approximately SPT's said M.P. 54.8 to approximately SPT's station called "Galveston" shown in its Division Time Table for its Houston Division as SP M.P. 55.6), including the right to use SPT's "Galvez Yard" at Galveston.

(5) In conjunction with the independent ratemaking authority, and in order to acquire operating rights over HB&T, KCS seeks the right to purchase 50 percent of ATSF's existing interest in HB&T, but not including any aspect of that interest attributable to non-operating real property of HB&T or to operating properties used exclusively for passenger service.

(6) KCS seeks trackage rights over the SPT line between Greenville, TX and Fort Worth, TX, with rights of local access at Fort Worth, and the right to purchase Hodge Yard in Fort Worth, which the Primary Applicants propose to remove from active service, permitting operation as follows:

From the point of KCS' connection with SPT at Greenville (shown as approximately SP M.P. 551.3 in its Division Time Table for its Pine Bluff Division) to and into SPT's yard at Fort Worth (shown in that Division Time Table as approximately SP M.P. 630.2).

The application substantially complies with the applicable regulations, waivers, and extensions granted. The applications and exhibits are available for inspection in the Public Docket Room at the Offices of the Interstate Commerce Commission in Washington, DC. In addition, they may be obtained from applicant's representatives upon request. Interested persons should request copies of exhibits due September 10th, from applicant's representatives, so their comments may reflect the later filed information.

The application is consolidated for disposition with the applications in Finance Docket No. 30400, *et al.* Those applications are the subject of oral hearings conducted by Administrative Law Judge James E. Hopkins, commencing October 1, 1984. By statute, the evidentiary phase of these proceedings must end by April 20, 1986. Service of an initial decision will be waived, and determination of the merits of the applications will be made in the first instance by the entire Commission. 49 U.S.C. 11345.

*Participating in the Proceeding: Comments.* Interested persons may participate formally by submitting written comments regarding the applications. Comments should indicate the exact proceeding designation, and an original and 10 copies should be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, no later than October 1, 1984. One copy should also be sent to the Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC 20423. Comments shall include the following: the person's position in support of or in protest to the proposed transaction, and specific reasons why approval would or would not be in the public interest. *See* 49 CFR 1180.4(d)(1). Interested persons who do not intend to participate formally in the proceeding but who desire to comment may file statements, subject to the filing and service requirements specified below. Persons must state specifically whether they intend to actively participate in the oral hearings on the applications or whether they wish only to be advised of all decisions issued by the Commission in this proceeding. Failure to state an intention to participate as an active party will result in the person being placed in the latter category.

Written comments shall be concurrently served by first-class mail on the Secretary of the Department of Transportation, on the Attorney General of the United States, and on

(1) Applicant's representatives:

Robert K. Zimmerman, 114 West 11th Street, Kansas City, MO 64105

Joseph Auberbach, Sullivan & Worcester, One Post Office Square, Boston, MA 02109, and

David M. Schwartz, Sullivan & Worcester, 1025 Connecticut Ave. NW., Washington, DC 20036

and (2) representatives of primary applicants SPT and ATSF:

R. K. Knowlton, Vice-President—Law, Santa Fe Southern Pacific Corp., 224 S. Michigan Ave., Chicago, IL 60604

Milton E. Nelson, Jr., General Counsel, The Atchison, Topeka and Santa Fe Railway Co., 224 S. Michigan Ave., Chicago, IL 60604, and

Douglas S. Stephenson, General Attorney, Southern Pacific Transportation Co., One Market Plaza, San Francisco, CA 94105

Within 10 days of the filing of written comments with the Commission, comments must also be served, by first class mail, on all persons designated active parties of record on the Commission's revised service list, which will be served shortly.

*Responsive Applications.* Because this application contains proposed conditions to approval of the applications in Finance Docket No. 30400, *et al.*, the Commission will entertain no requests for affirmative relief to these proposals. Parties may only participate in direct support of or direct opposition to KCS's application as filed.

This action will not significantly affect either the quality of the human environment or energy conservation.

*It is ordered:*

1. The application in Finance Docket No. 30,400 (Sub-No. 18) is accepted for consideration, subject to the condition that it is completed by the date previously set.

2. The parties shall comply with all provisions as stated above.

3. The decision is effective on the date served.

Decided: August 15, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor was absent and did not participate.

**James H. Bayne,**

*Secretary.*

[FR Doc. 84-22109 Filed 8-17-84; 8:45 am]

BILLING CODE 7035-01-M

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**[Decision No. 13; Finance Docket No. 30400; Sub-Nos. 8 and 10 et al.]**

## Railroad Services; Missouri, Kansas, Texas Railroad Co. System; Trackage Rights, Over Southern Pacific Transportation Co. Between San Antonio and Corpus Christi, TX et al.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Applications accepted for consideration.

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In the matter of; Decision No. 13, Finance Docket No. 30400, Sub-Nos. 8 and 10; Missouri-Kansas-Texas Railroad Company System-Trackage rights-over Southern Pacific Transportation Company between San Antonio and Corpus Christi, TX; Finance Docket No. 30400, Sub-No. 9; Missouri-Kansas-Texas Railroad Company System-Acquisition of use of Missouri Pacific Railroad Company facilities at Corpus Christi, TX; Finance Docket No. 30400, Sub-No. 11; Missouri-Kansas-Texas Railroad Company System-Trackage rights-over St. Louis Southwestern Railway Company between Topeka and Liberal, KS; Finance Docket No. 30400, Sub-No. 12; Missouri-Kansas-Texas Railroad Company System-Trackage rights-over Southern Pacific Transportation Company between Houston and Texas City, TX; Finance Docket No. 30400, Sub-No. 13; Missouri-Kansas-Texas Railroad Company System-Trackage rights-over Southern Pacific Transportation Company between Houston and Beaumont, TX; Finance Docket No. 30400, Sub-No. 14; Missouri-Kansas-Texas Railroad Company System-Trackage rights-over the Atchison, Topeka and Santa Fe Railway Company between Dallas and Ward Spur, TX.

**SUMMARY:** The Commission is accepting for consideration the applications of Missouri-Kansas-Texas Railroad Company System for trackage rights over certain lines of Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, and the Atchison, Topeka and Santa Fe Railway Company, and for acquisition of the right to use certain facilities of the Missouri Pacific Railroad Company for access to the terminal area at Corpus Christi, TX. These applications are filed as proposed conditions to the proposed merger between the Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Transportation Company. A schedule has been set for consideration of these applications.

**DATES:** Written comments must be filed with the Interstate Commerce Commission by October 1, 1984. Oral hearing in this consolidated proceeding will begin October 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Ellen A. Goldstein (202) 275-7969.

**ADDRESSES:** An original and 10 copies of all comments referring to the appropriate docket number should be filed with: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

One copy of all comments should also be filed with: Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

**SUPPLEMENTARY INFORMATION:** The Missouri-Kansas-Texas Railroad Company (MKT), with its wholly-owned subsidiary, the Oklahoma, Kansas and Texas Railroad Company (OKT), presently operates over approximately 3,100 miles of railroad in Missouri, Kansas, Oklahoma, Texas, Nebraska, and Iowa, extending from its principal northern terminals at Council Bluffs, IA, Omaha, NE, St. Louis, MO, and Kansas City, MO/KS, to its principal southern terminals at Dallas, Fort Worth, San Antonio, Houston, and Galveston, TX.

On July 18, 1984, MKT filed these responsive applications as proposed conditions to the applications in Finance Docket No. 30400 and embraced cases, where the Santa Fe Southern Pacific Corporation (SFSP) seeks authority to acquire control of Southern Pacific Transportation Company (SPT) and to merge SPT and the Atchison, Topeka and Santa Fe Railway Company (ATSF) to form SPSF, and for related transactions. Notice of those

applications was published in the **Federal Register** on April 20, 1984, at 49 FR 16881.

By statute and regulation, responsive applications were due to be filed July 19, 1984. [49 U.S.C. 11345(b)(2); and 49 CFR 1180.4(d)(4).] We granted MKT an extension of time to complete its applications by September 10, 1984 (decision served July 23, 1984). Supporting financial information, environmental and energy data, market impact analysis, operating plan, density charts, and verified statements must be filed by that date.

A summary of the applications follows:

(1) In Finance Docket No. 30400 (Sub-Nos. 8 and 10), MKT seeks trackage rights over SPT from San Antonio to Corpus Christi, TX, including the use of trackage of the Missouri Pacific Railroad Company (MP) that is presently used by SPT in serving Corpus Christi, and that is the subject of the Sub-No. 9 application; and MKT seeks authority to construct a connection from present MKT trackage in San Antonio to present SPT trackage in San Antonio. The trackage rights and the connection to be built are specifically:

The connection will be construed from approximately MKT Mile Post 1036.1 to approximately Mile Post 210.7 on the SPT's Del Rio Subdivision east of Tower 112, a distance of approximately 1700 feet. MKT would then enter onto SPT's Del Rio subdivision at Mile Post 210.7 near Tower 112 and would continue on to SPT's Corpus Christi Subdivision at approximately Mile Post 211.3 and thence to SPT Junction at Mile Post 122.6, a distance of approximately 123 miles; thence onto the MP's line at Sinton to MP Junction at Mile Post 152.8 then back onto the SPT line at MP Junction to approximately Mile Post 156.6 in the SPT-TM Joint Yard, said line being located in Bexar, Wilson, Karnes, Bee, San Patricio, and Nueces Counties, TX.

The right to interchange traffic with the Texas-Mexican Railroad Company (TM), MP, SP, and Corpus Christi Terminal Association at Corpus Christi is also sought along with the right to serve the Port of Corpus Christi and to serve all other industries in Corpus Christi through reciprocal switching.

If this Commission does not grant its primary request for trackage rights to Corpus Christi, MKT requests trackage rights over SPT's line from San Antonio to Eagle Pass, TX, which requires the construction of the same connection, plus the right to use SPT terminal facilities and services at Eagle Pass, to serve all industries at Eagle Pass, and to interchange with the National Railways of Mexico. These trackage rights and terminal rights are specifically:

The same connection as described above to be built from MKT Mile Post 1036.1 to approximately Mile Post 210.7 on the SPT's Del Rio Subdivision east of Tower 112. MKT would then continue on the Del Rio Subdivision to Spofford at Mile Post 341.7; then on the SPT's Eagle Pass Branch to Mile Post 33.2 in the SPT's Yard, a distance of approximately 164.2 miles, said line being located in Bexar, Median, Uvalde, Kinney, and Maverick Counties, TX.

(2) In Finance Docket No. 30400 (Sub-No. 9), in conjunction with the Sub-Nos. 8 and 10 applications, MKT seeks access to terminal facilities of MP in the Corpus Christi, TX, area presently used by SPT, under agreement with MP, for SPT's access to the Corpus Christi terminal area. The facilities are specifically:

The MP line between Mile Post 161.85 at Sinton, TX, and Mile Post 154.57 at Odem, TX, a distance of approximately 7.28 miles, and between Mile Post 132.30 at Odem and Mile Post 145.60 at Corpus Christi, TX, a distance of approximately 13.30 miles, together with three connecting tracks 853 feet long at Sinton, 1,193 feet long at Odem, and 408 feet long at Corpus Christi.

(3) In Finance Docket No. 30400 (Sub-No. 11), MKT seeks trackage rights over the St. Louis Southwestern Railway Company (SSW) between Topeka and Liberal, KS, with service at all intermediate points either physically or through reciprocal intermediate points either physically or through reciprocal switching, and use of SSW trackage to interchange at Herington, Hutchinson and Liberal, KS, with all carriers now serving those points. The trackage rights are specifically:

That part of SSW's main track extending for a distance of approximately 341 miles from, on the east, the connection with the Union Pacific Railroad Company (UP) at St. Joseph Junction at Mile Post 89.3 in Topeka, KS, to Mile Post 436.1 at Liberal, KS, located in the Counties of Shawnee, Wabaunesee, Morris, Dickinson, Marion, McPherson, Reno, Pratt, Kowa, Ford, Clark, Meade, and Seward, KS.

(4) In Finance Docket No. 30400 (Sub-No. 12), MKT seeks trackage rights over the SPT between Houston and Texas City, TX, with service at all intermediate points either physically or through reciprocal switching. The trackage rights are specifically:

From the Galveston, Houston and Henderson Railroad (GH&H) connection with SPT/Port Terminal Railroad Association (PTRA) at Harrisburg, between Harrisburg Jct. and Manchester Jct., then on the SPT from Manchester Jct. to Sinco Jct., then on to joint SPT/PTRA trackage from Sinco Jct. to Deer Park Jct., then on the SPT to Lift Bridge at Mile Post 51.7, a distance of approximately 44.5 miles; or, if the SPT abandons the line from Texas City to Galveston, then MKT requests the right to construct a connection from the SPT line to the GH&H line at Texas City at around Mile Post 46.8, a distance of approximately 39.6 miles, all located in Harris and Galveston Counties, TX.

(5) In Finance Docket No. 30400 (Sub-No. 13), MKT seeks trackage rights over the SPT between Houston and Beaumont, TX, with MKT also to serve the point of Chaison on SPT's Sabine Branch and to interchange with all carriers now serving Beaumont. MKT also seeks to use SPT terminal facilities at Beaumont, including using SPT's yard and terminal tracks and having SPT perform all necessary terminal functions for MKT at Beaumont. MKT also seeks the right to serve all industries at Beaumont, including the Port of Beaumont, through reciprocal switching. The trackage rights are specifically:

From point of connection with SPT in vicinity of Tower 108 at Houston, then over the Lafayette Subdivision to Beaumont, a distance of approximately 82 miles; and from Beaumont to Chaison Jct. at Guffey on the Sabine Branch, then on to Chaison, a distance of approximately 7 miles; all located in Harris, Liberty, and Jefferson Counties, TX.

(6) In Finance Docket No. 30400 (Sub-No. 14), MKT seeks trackage rights over ATSF between Dallas and Ward Spur, TX, with MKT physically serving the intermediate point of Midlothian, TX, and the industries at Ward Spur. The trackage rights are specifically:

From the ATSF main track connection near Tower 19 in Dallas to Midlothian at mile Post 26.9, then on to Ward Spur at Mile Post 23.7, a total distance of about 28 miles, with authority to physically serve all industries at Midlothian and Ward Spur, and with the right to construct a connection at Midlothian to the Mazda Motor facility at no expense to ATSF; all located in Dallas and Ellis Counties, TX.

The applications substantially comply with the applicable regulations, waivers, and extensions granted. However, we will require MKT to present more evidence regarding its related Sub-Nos. 8 and 10 and its Sub-No. 9 applications. The description of trackage rights in the Sub-Nos. 8 and 10 applications includes a portion of MP track. We presume that this is the MP line and connecting tracks described in the Sub-No. 9 application. We will accept the Sub-Nos. 8, 9, and 10 applications on the condition that MKT provide, by the extension date, more detailed information, such as maps and mile posts, clearly indicating the trackage over which it seeks to operate in these applications and the applications' relation to each other.

The applications and exhibits are available for inspection in the Public Docket Room at the Offices of the Interstate Commerce Commission in Washington, DC. In addition, they may

be obtained from applicant's representatives upon request. Interested persons should request copies of exhibits, due September 10th, from applicant's representatives, so that their comments may reflect the later filed information.

These applications are consolidated for disposition with the applications in Finance Docket No. 30400, *et al.* Those applications are the subject of oral hearings conducted by Administrative Law Judge James E. Hopkins, commencing October 1, 1984. By statute, the evidentiary phase of these proceedings must end by April 20, 1986. Service of an initial decision will be waived, and determination of the merits of the applications will be made in the first instance by the entire Commission. 49 U.S.C. 11345.

*Participation in the Proceeding: Comments.* Interested persons may participate formally by submitting written comments regarding the applications. Comments should indicate the exact proceeding they are filed in, and an original and 10 copies should be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, DC, 20423, no later than October 1, 1984. One copy should also be sent to the Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC, 20423. Comments shall include the following: The person's position in support of or in protest to the proposed transaction, and specific reasons why approval would or would not be in the public interest. See 49 CFR 1180.4(d)(1). Interested persons who do not intend to participate formally in the proceeding but who desire to comment may file statements, subject to the filing and service requirements specified below. Persons must state specifically whether they intend to actively participate in the oral hearings on the applications or whether they wish only to be advised of all decisions issued by the Commission. Failure to state an intention to participate as an active party will result in the person being placed in the latter category.

Written comments shall be concurrently served by first-class mail on the Secretary of the Department of Transportation, on the Attorney General of the United States, and on

(1) Applicant's representatives:

Michael E. Roper, Commerce Counsel, Missouri-Kansas-Texas Railroad Company, 701 Commerce Street, Dallas, Texas, and

Robert N. Kharasch, Galland, Kharasch, Morse & Garfinkle, P.C., 1054 Thirty-first Street, NW., Washington, DC 20007,

and (2) representatives of primary applicants SPT and ATSF

R. K. Knowlton, Vice-President—Law, Santa Fe Southern Pacific Corp., 224 S. Michigan Ave., Chicago, IL 60604

Milton E. Nelson, Jr., General Counsel, The Atchison, Topeka and Santa Fe Railway Co., 224 S. Michigan Ave., Chicago, IL 60604, and

Douglas S. Stephenson, General Attorney, Southern Pacific Transportation Co., One Market Plaza, San Francisco, CA 94105

Within 10 days of the filing of written comments with the Commission, comments must also be served, by first class mail, on all persons designated active parties of record on the Commission's revised service list, which will be served shortly.

*Responsive Applications.* Because these applications contain proposed conditions to approval of the applications in Finance Docket No. 30400, *et al.*, the Commission will entertain no requests for affirmative relief to these proposals. Parties may only participate in direct support of or direct opposition to MKT's applications as filed.

This action will not significantly affect either the quality of the human environment or energy conservation.

*It is ordered:*

1. The applications in Finance Docket No. 30400 (Sub-Nos. 8–14) are accepted for consideration, subject to the condition that they are completed by September 10, 1984.

2. The parties shall comply with all provisions as stated above.

3. The decision is effective on the date served.

Decided: August 15, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor was absent and did not participate.

**James H. Bayne,**

*Secretary.*

[FR Doc. 84-22111 Filed 8-17-84; 8:45 am]

**BILLING CODE 7035-01-M**

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**[Decision No. 16; Finance Docket No. 30400 (Sub-No. 19)]**

## Railroad Services; Texas Mexican Railway Co.; Trackage Rights Over Southern Pacific Transportation Company Between Corpus Christi and San Antonio, TX

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Application accepted in part for consideration subject to a condition, and rejected in part.

**SUMMARY:** The Commission is accepting for consideration the application of the Texas Mexican Railway Company (TM) for trackage rights over the Southern Pacific Transportation Company (SPT) and Missouri Pacific Railroad Company (MP) between Corpus Christi and San Antonio, TX, subject to the condition that an agreement is reached with MP to permit operation between Sinton and Corpus Christi, TX. Request to direct responsive applicant MP to provide trackage rights over its line between Laredo and San Antonio, TX, is rejected. The accepted application has been filed as a proposed condition to possible approval of the application by the Santa Fe Southern Pacific Corporation (SFSP) seeks to acquire control over SPT.

**DATES:** Written comments must be filed with the Interstate Commerce Commission by October 1, 1984. Oral hearing in this consolidated proceeding will begin October 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Ellen A. Goldstein (202) 275–7969.

**ADDRESSES:** An original and 10 copies of all comments referring to Finance Docket No. 30400 (Sub-No. 19) should be filed with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

One copy of all comments should be sent to: Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

**SUPPLEMENTARY INFORMATION:** TM is a class II regional railway operating solely within the State of Texas, operating primarily between Laredo and Corpus Christi.

On July 20, 1984, TM filed this responsive application as proposed conditions to the applications in Finance Docket No. 30400, and embraced cases, where SFSP seeks authority to acquire control of SPT, to merge SPT and ATSF to form SPSF, and for related transactions. Notice of the acceptance of those applications was published in the **Federal Register** on April 20, 1984, at 49 FR 16881.

By statute and regulation, responsive applications were due to be filed July 19, 1984. [49 U.S.C. 11345(b)(2); 49 CFR 1180.4(d)(4).] We granted TM an extension of time to complete its application by September 10th (decision served July 23, 1984). Supporting information must be filed by that date.

A summary of the application follows:

(a) TM seeks trackage rights over SPT between San Antonio and Sinton, TX, a distance of 124.2 miles, and over the MP between MP mile post 150 at Corpus Christi, TX, and MP mile post 162 at Sinton, a distance of 12 miles, and the

related use of terminal facilities; or in the alternative,

(b) TM seeks trackage rights over MP between Laredo and San Antonio, a distance of 154 miles, and the related use of terminal facilities.

In support of its application, TM states that unconditional approval of the primary application would provide SFSP with control of all international rail gateways with Mexico except the one at Laredo, TX. TM states that its request for trackage rights will help preserve the competitiveness of this gateway.

TM requests trackage rights between Laredo and San Antonio only if it is unable to obtain trackage rights between San Antonio and Corpus Christi. Each of the alternative requests involves operation over MP lines. Responsive applications are directed only toward a primary applicant, and seek affirmative relief either as a condition to or in lieu of the approval of the primary application. 49 CFR 1180.3(h). With the exception of authority to require terminal facilities of one carrier to be used by another carrier, this Commission has no jurisdiction in a consolidated proceeding to impose conditions on a carrier that is not a primary applicant.

With respect to its principal request, trackage rights from San Antonio to Corpus Christi, TM seeks trackage rights over a segment of SPT line and a segment of MP line that SPT uses to reach its terminal facilities at Corpus Christi. TM is of the opinion that MP may allow it access over the line between Sinton and Corpus Christi. Because use of trackage rights over the SPT line between San Antonio and Sinton is integrally related to TM gaining trackage rights over this MP segment, we will accept the San Antonio-Corpus Christi trackage rights portion of the application on condition that TM file with the Commission, and with all parties of record in this proceeding, an agreement or statement of intent to enter into such and agreement with MP, for operations over the MP Sinton-Corpus Christi trackage, or that TM otherwise assert a basis for the Commission to impose trackage rights over this line. In addition, we will require TM to describe the MP segment more accurately. By indicating only that it seeks trackage rights to milepost 150 at Corpus Christi, it fails to describe what, if any, trackage it seeks to operate over beyond that point and how the segment connects with terminal facilities used by SPT. We will require TM to provide a schematic of the track arrangements at Corpus Christi indicating appropriate mileposts and showing connections with carriers. These filings must be made by September 10th.

With regard to the alternative request, TM seeks trackage rights solely over MP line. It asserts no basis for Commission jurisdiction to grant them, no expectation of MP's willingness to sign an agreement allowing TM operation over the line, and no relationship between this line and any line of the primary applicants. This portion of the application will be rejected.

The application and exhibits are available for public inspection in the Public Docket Room at the Office of the Interstate Commerce Commission in Washington, DC. In addition, they may be obtained from applicant's representatives upon request. Interested persons should request copies of exhibits due September 10th from applicants' representatives, so their comments may reflect the later filed information.

The application is consolidated for disposition with the applications in Finance Docket No. 30400, *et al.* Those applications are the subject of oral hearings conducted by Administrative Law Judge Hopkins, commencing October 1, 1984. By statute, the evidentiary phase of these proceedings must end by April 20, 1986. Service of an initial decision will be waived, and determination of the merits of the applications will be made in the first instance by the entire Commission. 49 U.S.C. 11345.

*Participation in the Proceeding: Comments.* Interested persons may participate formally by submitting written comments regarding the application. Comments should indicate the exact proceeding designation, and an original and 10 copies should be filed with the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, no later than October 1, 1984. One copy should also be sent to the Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC 20423. Comments shall include the following: the person's position in support of or in protest to the proposed transaction, and the specific reasons why approval would or would not be in the public interest. *See* 49 CFR 1180.4(d)(1). Interested persons who do not intend to participate formally in the proceeding but who desire to comment may file statements, subject to the filing and service requirements specified below. Persons must state specifically whether they intend to participate actively in the oral hearings on the applications or whether they wish only to be advised of all decisions issued by the Commission in this proceeding. Failure to state an intention to participate as an active party will result in the person being placed in the latter category.

Written comments shall be concurrently served by first-class mail on the Secretary of the Department of Transportation, on the Attorney General of the United States, and on

(1) Applicant's representatives:

Mr. A. R. Ramos, Chairman of the Board, The Texas Mexican Railway, 1200 Washington Street, Laredo, TX 78040, and

Charles H. White, Jr., Arnall, Golden & Gregory, 1000 Potomac Street, NW., Suite 501, Washington, DC 20007

and on representatives of primary applicants SPT and ATSF:

R. K. Knowlton, Vice President—Law, Santa Fe Southern Pacific Corp., 224 South Michigan Ave., Chicago, IL 60604

Milton E. Nelson, Jr., General Counsel, The Atchison, Topeka and Santa Fe Railway Co., 224 South Michigan Ave., Chicago, IL 60604, and

Douglas S. Stephenson, General Attorney, Southern Pacific Transportation Co., One Market Plaza, San Francisco, CA 94105

Within 10 days of the filing of written comments with the Commission, comments must also be served, by first class mail, on all persons designated active parties of record on the Commission's revised service list, which will be served shortly.

*Responsive Applications.* Because this application contains proposed conditions to approval of the applications in Finance Docket No. 30400, *et al.*, the Commission will entertain no requests for affirmative relief to this proposal. Parties may only participate in direct support of or direct opposition to the TM application as filed.

This action will not significantly affect either the quality of the human environment or energy conservation.

*It is ordered:*

1. That portion of the application in Finance Docket No. 30400 (Sub-No. 19) relating to tracking rights between San Antonio and Corpus Christi, TX, is accepted for consideration subject to the condition that it is completed by September 10, 1984.

2. That portion of the application requesting trackage rights over MP lines between Laredo and San Antonio, TX, is rejected.

3. The parties shall comply with all provisions stated above.

4. The decision is effective on the date served.

Decided: August 15, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor was absent and did not participate.

James H. Bayne,

*Secretary.*

[FR Doc. 84-22112 Filed 8-17-84; 8:45 am]

BILLING CODE 7035-01-M

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**[Finance Docket No. 30400 (Sub-No. 16); Decision No. 14]**

## Railroad Services; Union Pacific Railroad Co. and Missouri Pacific Railroad Co., Trackage Rights over Southern Pacific and Santa Fe Railway Co.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Application accepted for consideration.

**SUMMARY:** The Commission is accepting for consideration the application of the Union Pacific Railroad Company (UP) and Missouri Pacific Railroad Company (MP) for trackage rights over certain lines of the Southern Pacific and Santa Fe Railway Company (SPSF) [presently, the Southern Pacific Transportation Company (SPT) and the Atchison, Topeka and Santa Fe Railway Company (ATSF)] in California, Arizona, and Texas. This application is filed as a proposed condition to the proposed merger between the SPT and ATSF. A schedule has been set for consideration of this application.

**DATES:** Written comments must be filed with the Interstate Commerce Commission by October 1, 1984. Oral hearing in this consolidated proceeding will begin October 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Ellen A. Goldstein (202) 275-7969.

**ADDRESSES:** An original and 10 copies of all comments referring to Finance Docket No. 30400 (Sub-No. 16) should be filed with: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

One copy of all comments should also be filed with: Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

**SUPPLEMENTARY INFORMATION:** UP/MP currently operate over 22,000 miles of track in the States of AR, CA, CO, ID, IL, IA, KS, MO, MT, MS, NB, NV, NM, OR, OK, TN, TX, WA, and WY.

On July 19, 1984, UP/MP filed this responsive application as proposed conditions to the application in Finance Docket No. 30400 and embraced cases, where the Santa Fe Southern Pacific Corporation (SFSP) is seeking authority to control SPT, and to merge ATSF and SPT to form SPSF, and for related transactions.

Notice of those applications was published in the **Federal Register** on April 20, 1984, at 49 FR 16881. The trackage rights sought by UP/MP in Finance Docket No. 30400 (Sub-No. 16) involve a portion of the SPT and ATSF lines sought to be controlled and merged by SFSP.

By statute and regulation, responsive applications were due to be filed July 19, 1984 [(49 U.S.C. 11345(b)(2); 49 CFR 1180.4(d)(4)]. We granted UP/MP an extension of time to complete its application by September 10, 1984 (decision served July 23, 1984). Supporting financial information, labor, environmental and energy data, market impact analysis, operating plan, and supporting verified statements must be filed by that date.

A summary of the application follows:

1. The SPT line between El Paso, TX (SPT Mile Post 827.2), and Colton, CA (SPT Mile Post 538.7), and from Picacho, AZ (SPT Mile Post 936.7), to and including a point about twelve miles west of Phoenix, AZ (SPT Mile Post 894.2);

2. The ATSF line between Barstow, CA (ATSF Mile Post 746.4), and Mojave, CA (ATSF Mile Post 814.7);

3. The SPT line between Mojave, CA (SPT Mile Post 381.3), and Bakersfield, CA (SPT Mile Post 312.9);

4. The SPT line between Colton, CA (SPT Mile Post 538.7), and Mojave, CA (SPT Mile Post 381.3) via Hiland and Palmdale, CA;

5. The ATSF line between Kern Junction, CA (ATSF Mile Post 885.2), and Oil Junction, CA (ATSF Mile Post 110.7), via Landco, CA;

6. The SPT line between Bakersfield, CA (SPT Mile Post 312.9), and the SPT-WPRR crossing near Lathrop, CA (SPT Mile Post 93.7), via Oil Junction, Fresno, and Modesto, CA;

7. The SPT/ATSF line between Oil Junction, CA (ATSF Mile Post 308.6), and Maltha, CA (ATSF Mile Post 311.6);

8. The ATSF line between Escalon, CA (ATSF Mile Post 1101.8), and Riverbank, CA (ATSF Mile Post 1095.6), and the ATSF Oakdale Spur;

9. The SPT line between Sacramento (Haggin), CA (SPT Mile Post 90.4), and Oakland, CA (SPT Mile Post 8.0 on the Oakland-Santa Clara Line), via Martinez and Richmond, CA; and

10. The SPT and ATSF lines between Martinez, CA (SPT Mile Post 34.7 and ATSF Mle Post 1166.9), and Antioch, CA (SPT Mile Post 53.5 and ATSF Mile Post 1152.1).

UP/MP also request, in connection with all of the above-described bridge trackage rights except those described in numbers 4 and 5 above, the rights to:

1. Serve points or segments of the lines that, as of October 4, 1983, were common to or operated by both ATSF and SPT, including without limitation, reciprocal switching zones.

2. Construct, own, and operate intermodal facilities, including but not limited to auto ramps, team tracks, TOFC/COFC ramps and facilities, and bulk transfer facilities;

3. Site and/or serve new facilities and industries on the lines or connecting to the lines by means of spur or industrial lead tracks;

4. Interchange traffic and equipment with railroads and other carriers at all existing or new physical connections and facilities located anywhere on the lines; and

5. Participate, at UP/MP's option, in joint facility, reciprocal switching and similar arrangements for joint service within the switching districts or municipalities served by means of the lines, to which both ATSF and SPT were parties as of October 4, 1983, on fair and equitable terms and conditions.

The application substantially complies with the applicable regulations, waivers, and extensions granted. The application and exhibits are available for inspection in the Public Docket Room at the Office of the Interstate Commerce Commission in Washington, DC. In addition, they may be obtained from applicant's representatives upon request. Interested persons should request copies of exhibits due September 10th, from applicants represenatatives, so their comments may reflect the later filed information.

The application is consolidated for disposition with the applications in Finance Docket No. 30400, *et all.* Those applications are the subject of oral hearings conducted by Administrative Law Judge James E. Hopkins commencing October 1, 1984. By statute, the evidentiary phase of these proceedings must end by April 20, 1986. Service of an initial decision will be waived, and determination of the merits of the applications will be made in the first instance by the entire Commission. 49 U.S.C. 11345.

*Participation in the Proceedings: Comments.* Interested persons may participate formally by submitting written comments regarding the application. Comments should indicate the exact proceeding designation, and an original and 10 copies should be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, DC, 20423, no later than

October 1, 1984. One copy should also be sent to the Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC 20423. Comments shall include the following: the person's position in support of or in protest to the proposed transaction, and specific reasons why approval would or would not be in the public interest. *See* 49 CFR 1180.4(d)(1). Interested persons who do not intend to participate formally in the proceeding but who desire to comment may file statements, subject to the filing and service requirements specified below. Persons must state specifically whether they intend to actively participate in the oral hearings on the application or whether they wish only to be advised of all decisions issued by the Commission. Failure to state an intention to participate as an active party will result in the person being placed in the latter category.

Written comments shall be concurrently served by first-class mail on the Secretary of the Department of Transportation, on the Attorney General of the United States, and on

(1) Applicant's representatives:

Charles A. Miller, Covington & Burlington, 1201 Pennsylvania Ave., NW., P.O. Box 7566, Washington, DC 20044, and

James V. Dolan, Union Pacific Railroad Company, Missouri Pacific Railroad Company, 1416 Dodge St., Omaha, NE 68179

and (2) representatives of primary applicants SPT and ATSF:

R. K. Knowlton, Vice President-Law, Santa Fe Southern Pacific Corp., 224 S. Michigan Ave., Chicago, IL 60604

Miltion E. Nelson, Jr., General Counsel, The Atchinson, Topeka and Santa Fe Railway Co., 224 S. Michigan Ave., Chicago, IL 60604, and

Douglas S. Stephenson, General Attorney, Southern Pacific Transportation Co., One Market Plaza, San Francisco, CA 94105

Within 10 days of the filing of written comments with the Commission, comments must also be served, by first class mail, on all persons designated active parties of record on the Commission's revised service list, to be issued shortly by the Commisssion.

*Responsive Applications.* Because this application contains proposed conditions to approval of the applications in Finance Docket No. 30400, *et al.*, the Commission will entertain no requests for affirmative relief to these proposals. Parties may only participate in direct support of or direct opposition to UP/MP's application as filed.

This action will not significantly affect either the quality of the human environment or energy conservation.

*It is ordered:*

1. The application in Finance Docket No. 30400 (Sub-No. 16) is accepted for consideration, subject to the condition that it is completed by September 10, 1984.

2. The parties shall comply with all provisions as stated above.

3. The decision is effective on the date served.

Decided: August 15, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor was absent and did not participate.

**James H. Bayne,**

*Secretary.*

[FR Doc. 84-22110 Filed 8-17-84; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Consent Decree in Action To Enjoin Discharge of Water Pollutants; Commercial Properties Development Corp.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Commercial Properties Development Corp.*, Civil Action No. 83-2907(JP), has been filed with the United States District Court for the District of Puerto Rico. The consent decree establishes a compliance program for wastewater treatment works owned and operated by Commercial Properties Development Corp. in the Bayamon Oeste Shopping Center, to bring this treatment works into compliance with the Clean Water Act, 33 U.S.C. 1251 *et seq.* and requires payment of a civil penalty.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Commercial Properties Development Corp.*, D.J. Ref. No. 90-5-1-1-2042.

The consent decree may be examined at the office of the United States Attorney, District of Puerto Rico, Suite 101, Chardon Avenue, Hato Rey, Puerto Rico 00918; at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; at the Caribbean Field Office, Environmental Protection Agency, P.O. Box 792, San Juan, Puerto Rico; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.60 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

**James M. Spears,**

*Acting Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 84-22049 Filed 8-17-84; 8:45 am]

BILLING CODE 4410-01-M

### Lodging of Consent Decree Pursuant to the Clean Water Act; North Pacific Processors, Inc.

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that on July 25, 1984 a proposed Consent Decree in *United States* v. *North Pacific Processors, Inc.*, Civil Action No. A83-009 was lodged with the United States District Court for the District of Alaska. The complaint filed by the United States alleged violations of the Clean Water Act by North Pacific Processors, Inc., due to its failure in 1982 to meet the requirements of an NPDES permit at its Cardova, Alaska facilities. The complaint sought injunctive relief to require the defendant to comply with the Clean Water Act and penalties for past violations of the Act. The Consent Decree imposes interim discharge limitations and monitoring, sampling, and reporting requirements while the defendant's application for renewal of its NPDES permit is pending and the defendent is required to pay a civil penalty of $15,000 in settlement of the Government's civil penalty claims.

The Department of Justice will receive for a period of thirty days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *North Pacific Processors, Inc.*, DOJ Reference 90-5-1-1-1881.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Federal Building and United States Courthouse, 701 C Street, Anchorage, Alaska 99513, and at the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue,

Seattle, Washington 98101. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1521, Ninth Street & Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to *United States* v. *North Pacific Processors, Inc.*, D.J. Ref. 90-5-1-1-1881, and include a check in the amount of $1.70 ($0.10 per page reproduction charge) payable to the United States Treasury.

**F. Henry Habicht, II,**

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 84-22048 Filed 8-17-84; 8:45 am]

BILLING CODE 4410-01-M

## NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

### National Endowment for the Arts; Music Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Chamber/New Music Presenters Section) to the National Council on the Arts will be held on September 5-6, 1984, from 9:30 a.m.-5:30 p.m., and on September 7, 1984, from 9:30 a.m.-4:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on September 7, 1984, from 9:30 a.m.-11:30 a.m. to discuss policy and guidelines.

The remaining sessions of this meeting on September 5-6, 1984, from 9:30 a.m.-5:30 p.m. and on September 7, 1984, from 11:30 a.m.-4:30 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

**Gary O. Larson,**

*Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 84-21925 Filed 8-17-84; 8:45 am]

BILLING CODE 7537-01-M

### National Endowment for the Arts; Visual Arts Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Art in Public Places—Letters of Intent Section) to the National Council on the Arts will be held on September 4-5, 1984, from 9:00 a.m.-5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

This meeting is for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

**Gary O. Larson,**

*Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 84-21926 Filed 8-17-84; 8:45 am]

BILLING CODE 7537-01-M

## NUCLEAR REGULATORY COMMISSION

### Abnormal Occurrence; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incidents were determined to be abnormal occurrences using the criteria published in the **Federal Register** on February 24, 1977 (42 10950). These abnormal occurrences are described below, together with the remedial actions taken. These events are also being included in NREG-0090, Vol. 7, No. 1 ("Report to Congress on Abnormal Occurrences: January-March 1984"). This report, which will be available in the NRC's Public Document Room 1717 H Street, NW, Washington, D.C. about three weeks after the publication date of this **Federal Register** Notice, also contains one additional abnormal occurrence (i.e., "Through Wall Crack in Vent Header Inside BWR Containment Torus", which occurred at Hatch Unit 2) which was published in the **Federal Register** (49 FR 19912) on May 10, 1984.

#### Inoperable Containment Spray System

One of the general abnormal occurrence criteria notes that major degradation of essential safety-related equipment can be considered an abnormal occurrence.

In addition, Example II.A.3 of the abnormal occurrence criteria notes that loss of plant capability to perform essential safety functions such that a potential release of radioactivity in excess of 10 CFR Part 100 guidelines could result from a postulated transient or accident can be considered an abnormal occurrence.

*Date and Place*—On November 29, 1983, Consolidated Edison of New York (the licensee) discovered that two motor operated spray header discharge valves at Indian Point Unit 2 were found in the locked-closed, de-energized position instead of the required locked-open, de-energized position. This condition would have prevented automatic actuation of the containment spray system during the safety injection phase of an accident. Indian Point Unit 2 utilizes a Westinghouse-designed pressurized water reactor and is located in Westchester County, New York.

*Nature and Probable Consequences*—During a cold shutdown for unscheduled plant maintenance, the spray header discharge valves (MOVs 869A and 869B) were closed and tagged out of service. Following the maintenance, personnel were assigned to perform a check-off procedure which should have returned the values to their proper position prior to heating the reactor coolant system above 350 °F and subsequent core criticality. However, due to personnel errors in completing the check-off procedure, this was not done.

On October 25, 1983, the licensee completed the unscheduled maintenance and returned the reactor to criticality. Four reactor trips occurred during the

plant startup period. The unit was returned to full power operation on October 28, 1983. The unit operated at or near 100% power through November 22, 1983 when the reactor automatically shut down due to an equipment problem. Repairs were made and power operation resumed on November 25, 1983. On November 29, 1983, with the reactor operating at 100% power, the licensee discovered that MOV 869A and MOV 869B were closed, while performing a bimonthly (every two months) containment spray pump surveillance test.

The safety function of the containment spray system is to spray borated water into the containment to limit the maximum pressure in the containment to less than the design pressure following certain steam line breaks or loss of coolant accidents (LOCAs) and to reduce the pressure and temperature to minimize containment leakage. The system is also designed to spray sodium hydroxide into the containment to remove radioactive iodine which would limit iodine doses to less than 10 CFR Part 100 limits should a LOCA occur.

The plant also has a containment fan cooler system, which is used during normal operation to recirculate and cool the containment atmosphere. Following a LOCA or steam line break accident, the system acts in conjunction with the containment spray system to reduce containment temperature and pressure. The amount of pressure and temperature reduction depends upon the number of containment spray trains and fan coolers that would operate following such an accident. The containment fans, in conjunction with a filtration system, would also remove some radioactive iodine in the post-accident containment atmosphere; however, this method is not as effective as the containment spray system.

The containment heat removal system consists of five containment fan cooler units and two containment spray trains. The plant's final safety analysis report (FSAR) states that sufficient post-accident heat removal capability can be provided by any of the following combinations:

1. All five containment fan cooling units;

2. Both containment spray trains (and one of the two recirculation spray trains during the recirculation phase of safety injection); or

3. Three containment fan cooler units and one containment spray train.

During the time in question, automatic actuation of the containment spray system would not have been possible. However, there are indications in the control room which could inform the reactor operators that spray injection was not taking place. The operators then have various options to manually initiate containment spray, e.g. (1) realign the spray valves from the motor control center, an area designed to be accessible in high, post-accident radiation fields, or (2) supply spray from the residual heat removal discharge by opening appropriate valves from the central control room.

Although the reactor operators would be expected to recognize in a timely manner that the containment spray valves were closed, the NRC staff has performed bounding calculations to predict worse case conditions in order to determine whether either the containment design pressure or post-accident offsite dose limitations would be exceeded after a design basis accident. Indian Point Unit 2 has two trains of fan coolers on separate power sources; one train has two fan coolers and the other train has three fan coolers. Since, for the present situation, both containment spray trains would be out of service, the staff assumed that a single active failure would reduce the active containment heat removal capability to two fan coolers during a pipe break accident. Under these conditions, the reduced heat removal capability would be expected to result in a higher peak containment pressure. In addition, less filtration of radioactive iodine would be expected to result in higher off-site doses.

The NRC calculations show a peak containment pressure, for the design basis loss of coolant accident (double-ended pump suction guillotine break), of 41.9 psig; this is substantially below the containment design pressure of 47 psig. However, based on the methods and assumptions consistent with those in the current licensee application reviews (i.e., Standard Review Plan 15.6.5), calculations predict resultant doses approximately four times the 10 CFR Part 100 thyroid exposure guidelines at the exclusion area boundary, assuming no operator action. If operator action were to be taken to initiate containment spray after 30 minutes, calculations predict resultant doses approximately 1.8 times the exposure guidelines at the exclusion area boundary.

These calculations are expected to be very conservative. Possible mitigating factors are:

1. The calculations assume the worst case single active failure (i.e., the power source that powers three of the five containment fan cooler units). In addition, credit is not given to operator action to actuate the containment spray systems prior to 30 minutes.

2. The dose calculations assumed the standard containment leak rate of 0.1% for the first 24 hours. Credit for a reduced leak rate was not given for either (1) the actual, as measured, containment leak rate or (2) the Isolation Valve Seal Water System which automatically injects water between the containment isolation valves post-accident in order to eliminate potential containment leak paths.

However, it should be noted that in regard to Item 1 above, even if the worst case single active failure is *not* assumed (i.e., all five containment fan coolers are operating), NRC calculations predict iodine doses at the exclusion area boundary which exceed the 10 CFR Part 100 guidelines.

*Cause or Causes*—The cause of the event is attributed to personnel error. On October 23 and 24, 1983, prior to plant startup after the maintenance outage, operators were assigned to perform a Safety Injection System Check-Off List (COL-12) which should have returned the valves to their proper positions. COL-12 required one operator to ensure the correct valve position and a second operator to verify the position. COL-12 directs the operators to the motor control centers to perform two verifications for each valve: (1) Verify that the position of the valve is open, and (2) verify that the breaker is de-energized. In the de-energized condition, position indication for the valve is lost at the motor control centers. Verifying position at the motor control center, therefore, requires energizing the breaker. This was not done, and each operator assumed the valve was open. The first operator assumed that the valve was positioned by another operator. The second operator assumed the valve was open because the breaker was locked in the de-energized position.

*Actions Taken To Prevent Recurrence*

*Licensee*—On November 29, 1983, while performing a routine containment spray surveillance test, test personnel realized the valve line-up was wrong when the "as left" position differed from the "as found" position. The senior reactor operator was notified when the discrepancy was identified and the valves were positioned correctly.

The licensee reported the incident to the NRC Resident Inspector and by telephone to the NRC Operations Center. The licensee initiated an investigation to establish the cause of the event and to determine corrective actions. The investigation included interviews with cognizant personnel and review of pertinent procedures, qualification programs, technical

specifications, and other reference documentation. Immediate corrective action steps taken by the licensee included verifying correct valve positions of similarly de-energized safeguards valves found on check-off lists.

In addition, the licensee determined that improvements could be made in the training/qualification program of nuclear plant operators to place new emphasis on equipment status identification. The operator qualification standard will specify the knowledge required by the operator for the performance of COLs. In addition, the licensee will further assure that appropriate guidance is provided to the operators in the conduct of COLs.

Other long term corrective actions include: (1) Review of valve position indication for all safety related valves to determine if modifications are necessary to provide for positive indication of de-energized valves, and (2) verification of the operability of all currently installed safety related MOV position indicators with corrections if necessary.

*NRC*—An investigation of the details associated with the event was made as part of the routine inspections conducted by the Resident Inspectors at the plant during the period from October 18 to November 30, 1983. One violation was noted, i.e., failure to meet a technical specification Limiting Condition for Operation with respect to the operability of the containment spray system.

On Decmeber 13, 1983, an enforcement conference was held between NRC Region I personnel and the licensee. The safety significance and immediate and long-term corrective actions for the event were discussed. On March 13, 1984, the NRC Region I forwarded a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $40,000. In addtion, the NRC will monitor the actions taken by the licensee to prevent recurrence.

The NRC notes that there have been several events at various nuclear power plants which involved inadvertent isolation of either the containment spray system or the chemical (sodium hydroxide) addition tanks while the plants were at power. These events are briefly described in Table 1. While most of the events only resulted in system inoperability for a few minutes or hours, the potential was there for extended plant operation with these safety systems inoperable.

TABLE 1.—EVENTS INVOLVING INADVERTENT ISOLATION OF CONTAINMENT SPRAY SYSTEMS

| Plant name; licensee; plant location; date of event | Event |
|---|---|
| Davis Besse; Toledo Edison Co.; Ottawa County, OH; Jan. 12, 1978. | Both containment spray pumps found with the circuit breakers de-energized. Personnel error resulted in 24 hours of plant operation (Mode 4) with system inoperable. |
| Davis Besse; Toledo Edison Co.; Ottawa County, OH; Dec. 28, 1978. | Two hours after entering Mode 4, containment spray pump motor breakers were found in the lockout position. Caused by failure to follow procedures. |
| D.C. Cook Unit 2; Indiana & Michigan Electric Co.; Berrien County, MI; May 2, 1978. | During change from Mode 5 to Mode 4, containment spray pumps remained inoperable when control switches were left in lockout positon. Procedureal and personnel error left system inoperable for four hours. |
| Farley Unit 1; Alabama Power Co.; Houston County, AL; May 10, 1982. | While performing "Penetration Room Exhaust and Air Filtration System Train Operability and Valve Inservice Test," an operator inadvertently closed the containment spray suction valves from the refueling water storage tank. The valves were closed at power for seven hours. |
| Farley Unit 2; Alabama Power Co.; Houston county, AL; Dec. 26, 1981. | While performing surveillance testing, the isolation valve on the NaOH spray additive tank was found in the closed position. Caused by operator error during position alignment checks. |
| Farley Unit 2; Alabama Power Co.; Houston County, AL; Oct. 28, 1982. | The containment spray header isolation valves on each of the two supply headers were found locked in the closed position. Condition had existed for over 17 months. Caused by valves not being in conformance with design drawings and by a procedural inadequacy. |
| Ginna; Rochester Gas & Electric Corp.; Wayne County, NY; June 13, 1983. | While changing modes (cold shutdown to hot shutdown), the containment spray pumps were found in the pull-to-lock positon. |
| Indian Point Unit 2; Consolidated Edison Co. of New York; Westchester County, NY; Nov. 24, 1980. | Both containment spray pump control switches found in pull-to-lock position by the NRC resident inspector while the plant was at full power. Plant procedures called for such practices during containment entry. Licensee informed of non-compliance with Technical Specifications and procedures subsequently revised. |
| Indian Point Unit 2; Consolidated Edison Co. of New York; Westchester County, NY; Sept. 29, 1983. | while performing a containment spray pump surveillance test, during normal operation, two motor operated spray header isolation valves were found in the locked closed, de-energized position instead of the required locked open, de-energized position. Condition had existed for about five weeks. Caused by personel error. |
| McGuire Unit 1; Duke Power Co.; Mecklenburg County, NC; Sept. 29, 1983. | Both trains of containment spray system were technically inoperable for about five hours while the plant was operating at full power. The cause was a combination of component failure and operator error. |
| Point Beach Unit 1; Wisconsin Electric Power Co.; Manitowoc County, WI; June 21, 1981. | While performing periodic surveillance, the spray additive tank isolation valve was found in the closed position, thus preventing injection of NaOH to the containment spray system. Operator error leaves valve misaligned for four days. |
| San Onofre Unit 3; Southern California Edison; San Diego County, CA; Mar. 17, 1984. | While performing routine surveillance at nearly full power, manual isolation valves in both of the containment spray headers were found closed. System was inoperable for about 13 days. Cause of the misalignment of the isolation valves was improper use of the valve alignment checklist. |
| Surry Unit 1; Virginia Electric & Power Co.; Surry County, VA; Oct. 16, 1982. | Isolation valves leading from the chemical addition tank were found in the closed position. Cause attributed to personnel failure to perform valve alignment check. |
| Turkey Point Unit 4; Florida Power & Light Co.; Dade County, FL; Oct. 4, 1983. | A non-licensed operator assigned to close the spary header isolation valves on Unit 3 (cold shutdown) inadvertently closed the identical valves on Unit 4. Unit 4 operated at power with these valves closed for 50½ hours. |

Three events in Table 1 caused particular concern because of the extended periods of time in which the containment spray systems were inoperable. The first was the October 28, 1982, event at Farley Unit 2 in which the systems were inoperable for over 17 months. This event was reported as abnormal occurrence 82-7 in HUREG-0090, Vol. 5, No. 4 ("Report to Congress on Abnormal Occurrences: October-December 1982").

The second was the November 29, 1983, event at Indian Point Unit 2 in which the systems were inoperable for about five weeks. This event is discussed above as an abnormal occurence.

The third is the March 17, 1984, event at San Onofre Unit 3 in which the systems were inoperable for about 13 days. This event is still under evaluation. If it is determined to meet the abnormal occurrence reporting threshold, it will be reported as such.

On May 25, 1984, the NRC issued Inspection and Enforcement Information Notice No. 84-39 ("Inadvertent Isolation of Containment Spray Systems") to all facilities holding an operating license or construction permit, which was based on information contained in Table 1. This may help to reduce the frequency of these types of events by heightening the industry's awareness of the potential for such events and the circumstances associated with their occurrence.

**Serious Degradation of Reactor Depressurization System**

One of the general abnormal occurrence criteria notes that major degradation of essentials safety-related equipment can be considered an abnormal occurance.

*Date and Place*—On February 22, 1984, the NRC was notified by Consumers Power Company, licensee

for the Big Rock Point Nuclear Power Station, that three of four reactor depressurization system (RDS) isolation valves failed to open during a surveillance test at 1:15 a.m. This surveillance testing is routine testing which is performed every 90 days. Big Rock Point is a boiling water reactor located in Charlevoix County, Michigan.

*Nature and Probable Consequences*—At the time of the event, the plant was in hot standby condition (reactor shut down, system at reduced pressure and temperature—approximately 50 psig and 265 °F, respectively). The plant had been shut down since February 19, 1984, for various maintenance activities. When the three isolation valves failed to open during the surveillance test, the licensee declared the incident to be an Unusual Event (the least severe of the NRC's emergency categories) until the plant was placed in cold shutdown (reactor shut down, system at atmospheric pressure and temperature below 212° F).

The RDS is a set of piping and valves which was installed at Big Rock Point in the mid-1970's. One large pipe from the steam drum feeds four parallel lines, each line contains an isolation valve and a depressurization valve (both normally closed). Both valves must open to allow flow through the line. The purpose of the RDS is to provide a method of rapidly depressurizing the reactor in the event of a small break loss of coolant accident (SB–LOCA). In such an accident the reactor would lose cooling water while the system pressure would remain high. Since Big Rock Point does not have a high pressure injection system, the RDS reduces the system pressure to the point (roughly 75 psig) where the core spray system (a low pressure system) can deliver cooling water to the reactor. The plant technical specifications require that three of the four lines be operable whenever the reactor is not in cold shutdown. Safety analysis calculations indicate that three would be needed to properly depressurize the reactor under the worst case accident conditions. If the RDS did not operate properly in the event of a SB–LOCA, use of the core spray system could be delayed and the core could become uncovered and damaged.

The isolation valves are 6-inch flexible wedge-type gate valves manufactured by Anchor-Darling. The valves are opened by a spring and closed by a pressurized air system. In 1983 the licensee installed an air amplifier system to increase the air pressure which holds the valves closed. No changes was made to the springs.

*Cause or Causes*—After consulting with the valve manufacturer and conducting tests of the valves, the licensee determined that the cause of the valves failing to open was a combination of thermal binding and the increased force holding the valves closed due to the recently installed air amplifier system. Thermal binding occurs when the valve is closed hot and then cooled down. The cooling causes contraction of the valve seat and therefore requires additional force to open the valve. The increased force holding the valve closed resulting from the installation of the air amplifier fruther heightened the effects of thermal binding to the point that the springs were not strong enough to open the valves.

Based on the results of past testing, the licensee concluded that the valves would have opened at normal operating temperature which is approximately 550 °F. Since the valves failed to open at approximately 265 °F and there was no testing at temperatures between 550 °F and 265 °F, the licensee was unable to determine the temperature at which failures would have begun.

In reviewing past operating experience, the licensee determined that prior to the installation of the air amplifier, there had been no instances of values failing to open because of thermal binding.

*Actions Taken To Prevent Recurrence*

*Licensee*—The licensee removed the air amplifier system from service, and returned to the closing air pressure used previously. This action reduced the force holding the valve closed and minimized the potential for thermal binding. The licensee disassembled one valve for inspection with no defects found. The valves were then cycled at operating temperature and retested during a partial unit cooldown and depressurization. All valves functioned properly during these tests. The licensee also committed to test the valves again during the next cold shutdown.

*NRC*—The NRC's Senior Resident Inspector arrived at the site at 3 a.m., February 22, 1984. He remained on site until the plant was in cold shutdown. He then monitored the licensee's activities in investigating the cause of the failures and developing corrective actions.

On March 3, 1984, NRC Region III (Chicago) issued a Confirmatory Action Letter confirming the licensee's commitments in testing and examining the valves before returning the plant to operation. The Senior Resident Inspector witnessed the testing activities.

Having satisfactorily completed the testing and inspections required by the Confirmatory Action Letter, the licensee was given permission to resume normal operations.

**Overexposure to a Member of the Public**

Example I.A.2 of the abnormal occurrence criteria notes that an exposure to an individual in an unrestricted area, such that the whole body dose received exceeds 0.5 rems in one calendar year, can be considered an abnormal occurrence.

*Date and Place*—On December 30, 1983, a representative of the University of Cincinnati Hospital, of Cincinnati, Ohio, reported that a radiation therapy device had been handled by hospital personnel who believed it to be empty when, in fact, it actually contained some tiny, sealed, iridium-192 radiation sources.

*Nature and Probable Consequences*—The radiation therapy device consisted of a plastic template and a series of hollow needles. The device had been borrowed from the University of Cincinnati Hospital by Bethesda Hospital (also of Cincinnati, Ohio) for use in treating a patient. At Bethesda Hospital, the template and needles were surgically fitted to the patient and an x-ray also showed that the needles did not contain any radiation sources.

The radiation sources (called seeds), containing iridium-192 and encased in plastic ribbons, were then inserted into 32 of the 42 needles. According to the physician, the ribbons were removed when the treatment was completed on November 23, 1983, and a radiation survey was performed to assure that all had been removed. The treatment device was then removed and cleaned. Hospital personnel who performed the cleaning stated that there were no ribbons or seeds remaining in the needles.

The device was then stored until about December 2, 1983, when it was taken by a secretary to be returned to the University of Cincinnati Hospital. It remained in the secretary's automobile until she gave it to another person to return. After the device was received by the University of Cincinnati Hospital, it was unintentionally returned by mail to the treating physician. It was then returned, finally arriving at the University of Cincinnati Hospital about December 16, 1983.

The device was placed in storage. On December 19 and again on December 26, 1983, it was taken out of storage and used in treatment planning. When not used in planning or placed in storage, the device was left at a receptionist's desk at the hospital for a total of about 4 and ½ days. On December 28, 1983, during preparations for a radiation

therapy procedure, University of Cincinnati Hospital personnel found a strand of nylon ribbon containing nine seeds in one of the needles. The other needles were checked on December 29, 1983, and two of them were found to also contain ribbons—one with two seeds and one with seven seeds.

About 50 persons at the two licensees received radiation exposures as a result of the incident, according to information gathered by NRC inspectors through interviews with personnel at the two institutions. One University of Cincinnati Hospital employee, an administrative worker who is considered a member of the public and not a radiation worker, received a whole body exposure estimated to be between 750 and 800 millirems. A second administrative employee received a whole body exposure estimated to be 400 to 500 millirems and, in addition, received an exposure of between 15 to 18 rems to the hands.

The other individuals received lesser exposures with most of the exposures being less than 50 millirems. These exposures are estimated from interviews with the individuals involved, since as administrative employees who do not normally handle radioactive materials, they were not wearing radiation measuring devices.

NRC regulations provide that licensed activities should not result in a whole body exposure of a member of the public of more than 500 millirems in any one year. Individuals classified as radiation workers may receive up to 1,250 millrems (1.25 rems) in a calendar quarter and 18.75 rems to the hands.

The exposures received by all of the personnel involved are small and no clinically detectable effects would be expected. However, they do represent unnecessary exposures. The NRC considers that all unnecessary radiation exposures should be avoided as a matter of prudence.

*Cause and Causes*—The cause of the incident could not be determined with certainty. The physician at Bethesda Hospital stated that all required radiation surveys were performed after the sources were removed from the patient. The NRC requires that surveys be performed of the patient and of areas where the sources were put in place and removed. The physician reported that the surveys showed no evidence of any sources remaining, although the surveys were not documented as required by NRC regulations.

No procedures were in existence for the checking of radiation therapy devices transferred between hospitals, and therefore the device was not surveyed when it was received at the University of Cincinnati Hospital.

*Actions Taken To Prevent Recurrence*

*Licensees*—Each licensee was required by the NRC to devlop procedures to ensure that all radiation sources are removed from therapy devices and to check equipment being transferred between hospitals. These procedural modifications were made.

*NRC*—The NRC, through its inspections, was unable to determine responsibility for the mishandling of the sources and subsequent unnecessary radiation exposures. The programs for the control of potentially radioactive materials at both hospitals were found to need improvement. Therefore, each hospital was required to submit its planned actions to improve its handling procedures to prevent a recurrence of this type of incident. In addition, a Notice of Violation was issued to Bethesda Hospital for violations of NRC requirements, including the failure to maintain records of radiation surveys performed after removal of sources from the patient.

**Therapeutic Medical Misadministration**

The general abnormal occurrence criteria notes that a major reduction in the degree of protection of the public health or safety can be considered an abnormal occurrence.

*Date and Place*—On March 6, 1984, a representative of Henry Ford Hospital, Detroit, Michigan, reported that a 26-year-old female patient had received a therapeutic radiation dose to the head which was 45 per cent in excess of that prescribed. The misadministration had occurred in a radiation treatment program which began January 30, 1984, and was terminated on March 5, 1984, when the excessive radiation dose was discovered.

*Nature and Probable Consequences*—Following surgery for a malignant brain tumor, radiation therapy was prescribed for the patient. The treatment plan called for 30 treatments of 200 rads of radiation for a total radiation dose to the midline of the brain of 6,000 rads. (A rad is a standard measure of radiation.)

The normal procedure is to administer half of the radiation dose (or, in this case, 100 rads) to each side of the head. The dosimetrist (the hospital employee who calculates the exposure time necessary to achieve the prescribed dose) erred in calculating the exposure time so that 200 rads was administered to each side of the head—twice the intended amount of radiation per treatment.

The treatment series began January 30, 1984. The patient developed erythema (severe reddening of the skin) during the treatment course. Because this condition was more severe than anticipated, the attending physician reduced the per-treatment prescribed dose to 150 rads after the 15th treatment. A second dosimetrist calculated the new exposure time and repeated the original error, resulting in subsequent treatments of 150 rads to each side of the head for a total of 300 rads per treatment.

The severity of the erythema increased, and after nine treatments at the reduced level, the physician asked for a review of the dose calculations. The recheck identified the error, and the treatments were stopped. The patient had received a total of 8700 rads. The rate of exposure was also significantly greater than that planned.

*Cause and Causes*—The misadministration occurred as a result of an error by the dosimetrist in calculating the exposure time necessary to provide the radiation dose prescribed by the physician, coupled with a similar error by the second dosimetrist. The errors resulted in an exposure 45% greater than that prescribed, and in an exposure rate about 80% greater than that prescribed.

The dosimetrists' errors would likely have been detected if the standard hospital practice had been followed and another qualified staff member had rechecked the calculations used in determining exposure times. However, this procedure was not followed in this instance.

A review by an NRC inspector of dose calculations for radiation therapy for other patients during the time this misadministration occurred identified numerous additional instances where this recheck procedure had not been followed. Hospital employees interviewed attributed this failure to follow the procedure to an excessive workload due to a recent staff vacancy that had not yet been filled.

The rechecking procedure was not formalized in a written instruction, and it was not part of the requirements imposed by the hospital's NRC license.

*Actions Taken To Prevent Recurrence*

*Licensee*—The hospital has revised its operating procedures to formalize the requirement that all dose calculations be checked by a second qualified individual. Radiation technologists who administer the treatments are instructed not to perform more than two treatments without the dose calculation being rechecked.

The hospital is actively seeking another dosimetrist to bring the number of dosimetrists to the normal

complement of three. The hospital also instituted an audit program for a periodic review of the radiation therapy department activities by a qualified hospital member from outside the department. The hospital is providing continuing medical review of the patient.

*NRC*—The NRC retained a medical consultant to evaluate the misadministration. A special inspection was conducted by the NRC on March 12–13, 1984, to review the circumstances of the misadministration. A meeting between hospital personnel and the NRC staff was held April 3, 1984, to review the hospital's corrective actions as a result of the misadministration. A followup inspection was conducted on April 5–6, 1984, to review the corrective actions being taken.

The licensee prepared a teletherapy treatment Quality Assurance Program Outline and submitted it to the NRC for review and approval on April 17, 1984. The program was written to provide enhanced assurance that all calculations for treatment with the cobalt-60 teletherapy unit are accurately made and verified by an independent dosimetrist and that licensed material is safely used. On July 17, 1984, the NRC issued a Confirmatory Order, effective immediately, for the licensee to implement the program if it has not already been implemented. The NRC will review the effectiveness of the program during subsequent inspections.

Dated in Washington, D.C. this 14th day of August 1984.

**Samuel J. Chilk,**

*Secretary of the Commission.*

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**[Docket No. 50-413]**

## Duke Power Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-24, issued to Duke Power Company, et al. (the licensee), for operation of the Catawba Nuclear Station, Unit 1 located in York County, South Carolina.

The amendment would change the surveillance requirement acceptance criteria for the Auxiliary Feedwater pumps. The new surveillance requirements specify lower flows at slightly higher pressures. These changes would make the Technical Specifications consistent with the values assumed in the accident analysis, and were requested in the licensee's application for amendment dated July 31, 1984.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendment does not increase the probability or consequences of an accident previously evaluated and it does not create the possibility of a new or different kind of accident. Since the accident analysis associated with the Auxiliary Feedwater pumps was done using the proposed values, there is no increase in the associated consequences of previously evaluated accidents. The proposed acceptance criteria do not involve a significant reduction in a margin of safety in that the proposed changes are those used in accident analysis calculations.

The Commission has provided guidance concerning the application of standards of no significant hazards determination by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no significant hazards considerations relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The amendment involved here is similar in that the results of the changes are clearly within the applicable accident analysis criteria. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By September 19, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any persons who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference

scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specifically. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to William L. Porter, Esq., Duke Power Company, P.O. Box 33189, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Dated at Bethesda, Maryland, this 14th day of August 1984.

For the Nuclear Regulatory Commission.

**Elinor G. Adensam,**

*Chief, Licensing Branch No. 4, Division of Licensing.*

[FR Doc. 84-22062 Filed 8-17-84; 8:45 am]

BILLING CODE 7590-01-M

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## Florida Power and Light Co.; Environmental Assessment and Finding of No Significant Impact

**[Docket Nos. 50-250 and 50-251]**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-31 and DPR-41, issued to Florida Power and Light Company (the licensee), for operation of the Turkey Point Plant, Units Nos. 3 and 4 (the facilities), located in Dade County, Florida.

### Environmental Assessment

*Identification of Proposed Action*

By letter dated September 12, 1983, the licensee requested deletion of Environmental Technical Specification 4.1.1.2, "Groundwater Monitoring Program." Specification 4.1.1.2 requires monitoring of wells and surface points for temperature, water level and conductivity (salinity). The purpose of the program is to determine the long-term effects of operating a salt water cooling system on the adjacent groundwater regime. The South Florida Water Management District (SFWMD) and the U.S. Geological Survey were to determine the adequacy of the schedule and the continued need for the monitoring.

*The Need for the Proposed Action*

The bases for requesting the deletion of the Groundwater monitoring program from the Technical Specifications is that the licensee has initiated the Turkey Point Groundwater Monitoring and Interceptor Ditch Programs in compliance with a legal Agreement between FP&L and the South Florida Water Management District (SFWMD) dated February 2, 1972. The programs consist of two separate but related projects. These are:

1. The Groundwater Monitoring Program, and;

2. The Interceptor Ditch System Program.

The purpose of the Groundwater Monitoring Program is to monitor the impacts of the cooling canal system on the underlying aquifer and water resources in the area and on the SFWMD's facilities and operations. The Interceptor Ditch Program is established to control inland seepage of cooling canal water.

*Environmental Impacts of the Proposed Action*

The Groundwater Monitoring Program results collected over the past eleven years have shown two significant features according to the August 1, 1983, Dames and Moore Report. The features are:

1. Construction and operation of the coooling canal system has not resulted in any significant landward migration of the saltwater wedge into the potable sections of the Biscayne aquifer.

2. Operation of the Interceptor Ditch

has served to protect the potable section of the Biscayne aquifer from saltwter intrusion.

The general conclusion has been that construction of the cooling canal system has had the localized effect of moving the shoreline of Biscayne Bay to the western edge of the system. Thus, the top of the saltwater wedge has moved to the western edge of the cooling canal system. Some slight landward movement of the toe of the saltwater wedge has been observed through the brackish sections of the aquifer. However, water quality of the potable zone has not been affected. Saltwater wedge movement has been seasonal in response to variations in rainfall and water levels.

With the relocation of the top of the wedge to the western edge of the canal system, the Interceptor Ditch operation has prevented any seasonal inland movement of saltwater into the upper, potable portion of the Biscayne aquifer. The saline ground water is intercepted by the ditch and returned to the cooling canal system during the dry season when natural freshwater hydraulic gradients are low and the potential for some intrusion exists. In summary, the ground water monitoring program results have shown over the past eleven years that the cooling canal system has not caused any significant saltwater intrusion. The seasonal potential for saltwater intrusion is effectively controlled by the Interceptor Ditch operation.

The revised groundwater monitoring program is designed to allow a continued monitoring of the saltwater wedge. Well pairs L-3/G-21 and L-5/G-28 lie along two lines oriented perpendicular to the western edge of the cooling canal system. These lines are therefore perpendicular to the saltwater wedge and can effectively monitor any significant inland movement of the wedge and detect any adverse changes in the Biscayne aquifer or deterioration of the licensee's water systems. If, at any time, SFWMD determines that the FP&L water system is not performing its design function, then FP&L will make operational and/or engineering changes as necessary to satisfy SFWMD's judgments in regards to the protection of the Biscayne aquifer. The Groundwater Monitoring Program has already demonstrated that the licensee's cooling water system has not had an adverse impact on the local aquifer and the transfer of responsibility should not have any environmental implications. Radiological monitoring programs for the facilities are not affected by these proposed amendments.

*Alternative to the Proposed Action*

Since we have concluded that there is no significant environmental impact associated with the proposed Technical Specification changes, any alternatives to these changes will either have similar environmental impact or greater environmental impact.

The principal alternative would be to deny the requested amendments. As stated above, the results have shown over the past eleven years that the cooling canal system has not caused any significant saltwater intrusion. The denial would not reduce the environmental impact of the operation of the facilities, but result in both the NRC and SFWMD monitoring the FP&L groundwater program. The SFWMD has been involved in the groundwater program since its inception and is probably better acquainted with the Biscayne aquifer and potential problems than the technical staff at NRC. It is therefore logical and appropriate to transfer the responsibility for monitoring the FP&L groundwater program to the District.

*Alternative Use of Resources*

This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to operation of Turkey Point Plant, Florida Power and Light Company, Docket Nos. 50-250 and 50-251, dated July 1972.

*Agencies and Persons Consulted*

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

**Finding of No Significant Impact**

The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for the amendments dated September 12, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 13th day of August 1984.

For the Nuclear Regulatory Commission.

**Darrell G. Eisenhut,**

*Director, Division of Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 84-22061 Filed 8-17-84; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-219]**

## GPU Nuclear Corp. and Jersey Central Power and Light Co., (Oyster Creek Nuclear Generating Station); Exemption

I

The GPU Nuclear Corporation and Jersey Central Power & Light Company (the licensees) are holders of Provisional Operating License No. DPR-16 which authorizes operation of the Oyster Creek Nuclear Generating Station. The license provides among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises one boiling water reactor located in Ocean County, New Jersey.

II

Section 50.44(c)(3)(iii) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to provide improved operational capability to maintain adequate core cooling following an accident by the end of the first scheduled outage beginning after July 1, 1982 of sufficient duration to permit required modifications. Each light-water reactor shall be provided with high point vents for the reactor coolant system, reactor vessel head, and for other systems required to maintain adequate core cooling if the accumulation of noncondensible gases would cause the loss of function of these systems.

The licensees' letter of August 2, 1982 as supplemented December 15, 1982, March 27, and May 8, 1984 requested a schedular exemption for the installation of high point vents on the Isolation Condenser. The licensees requested that the vents be installed during the Cycle 11 refueling (1985) outrage, stating that the plant's overall margin of safety would not be reduced by this deferral.

The isolation condensers of the reactor coolant system provide a means of removing decay heat from the core and reducing primary pressure to the level required for the injection of the low pressure core sprays in the event of an accident. Since Oyster Creek does not have safety-related high pressure injection capability, the pressure reducing systems take on an added importance.

In the present configuration, Oyster Creek has the capability to vent the isolation condensers to the main steam header downstream of the main isolation valves. This is done to prevent the accumulation of noncondensible gases during startup and normal plant operation. This accumulation can result in a blockage such that steam from the RCS will not be able to pass through the isolation condenser. However, in an accident situation this vent path is isolated. Therefore, the concern is that in a situation where sufficient noncondensibles are produced, the isolation condensers may become unavailable for achieving pressure reduction. To produce this amount of noncondensibles, the core would have to be degraded beyond what is calculated for the design basis events.

In order to degrade the core, water level would have to be lost. Recent studies have shown that significant hydrogen generation will not begin until the two phase level has dropped so as to uncover at least half the core. Along the way, all ECCS setpoints would have been passed and emergency procedures would be in force. The importance of this is that:

• The isolation condensers will be functional from the point of their initiation (low-low level—7'2" above the top of the active fuel) to the point where half the core is uncovered.

• The Automatic Depressurization System (ADS) will automatically open the five safety-related emergency relief valves (ERV) on low-low-low level (4'8" above the top of the active fuel) as long as other coincident signals are present. This is to ensure depressurization of the RCS.

• By procedure, the operators are instructed to manually open the EVRs from the control room if level has dropped to the top of the active fuel and if they are not already open.

In the case of a large break LOCA, where level will be lost very quickly, depressurization is not a concern since it is the event itself that depressurizes the vessel. Thus, there are methods, other than using the isolation condensers, available to achieve depressurization prior to, and in the event of core degradation.

In the analysis of a beyond-the-design-basis accident, the licensee is assumed to utilize all available means to try and mitigate the consequences. Operators at Oyster Creek are instructed by procedure to try to inject water into the vessel using the feedwater system (3 feedwater pumps, high pressure), the control rod drive system (2 pumps powered from safety buses, high pressure), the fire protection pumps (2 pumps, high volume, low pressure, taking suction from either the fire pond or the backup storage tank and discharging to low pressure spargers, diesel powered), and the standby liquid control system (high pressure, low volume) among others.

In the event that the isolation condensers are still needed to achieve a low pressure condition, the licensees have stated a willingness to use the presently available means to vent off the noncondensible gases. The drawback to using this method is the possible release to the environment of radionuclides. However, only a small fraction of the radioactivity will actually be released. This is due to the fact that 50–90% of the radionuclides are expected to plate out on the steam separators. Additional plate out is expected to occur in the condenser, vent line, and in the main steam lines (the relatively cool main steam lines will see significant plate out). In addition, it is possible that the main steam lines would have maintained their integrity so that the vented gases would remain bottled up. As such, use of the present ¾" piping to vent the isolation condensers to reduce the likelihood of further degradation to achieve recovery would result in a release primarily made up of noble gases and wold thus give the operators a viable alternative for ultimately reducing pressure.

For Oyster Creek, the total frequency of core damage caused by internal events is estimated to be approximately $9\times10^{-5}$ per year. In addition, over 80% of the total risk of core damage comes from sequences involving failure to scram and these sequences do not take credit for operation of the isolation condensers. Because these sequences have a very small chance of occurrence over the next operating cycle, the installation of a new vent line to the torus would extend the present outage by an additional six months, and because a vent line already exists, the modification to the isolation condenser in the present outage is not required.

Based on our evaluation the staff has concluded that deferment of installation of isolation condenser vents will not adversely affect plant operation, and the the requested schedular exemption from the requirements of 10 CFR 50.44(c)(3)(iii) should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the schedular exemption requested by the licensee's letter of August 2, 1982 is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission hereby grants to the licensees a schedular exemption from the requirements to provide isolation condenser high point vents during the current Cycle 10 refueling outage to the Cycle 11 refuelding outage.

Pursuant to 10 CFR 51.32 the Commision has determined that the issuance of the exemption will have no significant impact on the environment (August 9, 1984, FR 31964).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 9th day of August 1984.

For the Nuclear Regulatory Commission.

**Darrell G. Eisenhut,**

*Director, Division of Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 84-22064 Filed 8-17-84; 8:45 am]

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[Docket No. 50-346]

## Toledo Edison Co., and The Cleveland Electric Illuminating Co.; Environmental Assessment and Final Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of Appendix R to 10 CFR Part 50 to Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), for the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio.

### Environmental Assessment

*Identification of Proposed Action*

The exemption would relax certain requirements of Appendix R to 10 CFR Part 50 as follows:

(a) A requirement of subsection III.G.2 to provide a complete 3-hour rated fire barrier for the separation of redundant trains of equipment necessary for safe shutdown would be relaxed with respect to a fire door which is not UL rated and has not been tested. Instead, an engineering evaluation of the fire door has been performed simulating the fire test requirements of NFPA 251. The evaluation demonstates that the fire door provides a level of safety equivalent to the technical requirements of section III.G of Appendix R.

(b) The requirement of subsection III.L.1 that alternative or dedicated shutdown capability be able to achieve cold shutdown conditions within 72 hours would be relaxed to permit limiting the cooldown rate to 1.5F/hour under natural circulation conditions.

This would extend the time to reach cold shutdown to 193 hours when offsite power is not available. When offsite power is available, cooldown could be accomplished within the 72-hour interval.

(c) The requirement of section III.0 that the lube oil collection system be capable of holding the entire lube oil collection system be capable of holding the entire lub oil system inventory would be relaxed. The lube oil collection system for each coolant loop can contain the oil inventory from one of the two reactor coolant pumps only. Any overflow will drain to the containment building sump away from hot surfaces and flammable material.

The exemption is responsive to the licensees' application for exemption dated September 30, 1983, as supplemented by letter dated December 39, 1983.

*The Need for the Proposed Action*

The proposed exemption is needed because the existing design features relating to these fire protection items are the most practical method for meeting the intent of Appendix R to 10 CFR Part 50 and strict literal compliance would not enhance significantly fire protection capability at the facility.

Environmental Impact of the Proposed Action

The proposed exemption will provide a degree of fire protection equivalent to that required by Appendix R to 10 CFR Part 50 such that there is no increase in the risk from fires at the facility. The probability of fires is not increased and post-fire radiological risk is not greater than determined previously and the proposed exemption does not affect otherwise plant radioactive effluents. Therefore, the Commisison concludes that there are no significant radiological environmental impacts associated with this exemption.

The proposed exemption involves design features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect plant nonradioactive effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological impacts associated with the proposed exemption.

*Alternative Use of Resources*

This action does not involve the use of resources not previously considered in the Final Environmental Statements (construction permit and operating license) for the Davis-Besse Nuclear Power Station, Unit No. 1.

*Agencies and Persons Consulted*

The Commission's staff reviewed the licensees' request. The staff did not consult other agencies or persons.

**Finding of No Significant Impact**

The Commisison has determined not to prepare an environmental impact statement for the proposed action.

Based on the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated September 30, 1983, and supplemental information submitted by letter dated December 30, 1983. These documents are available for inspection by the public at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the University of Toledo Library, Documents Department, 2801 West Bankcroft Avenue, Toledo, Ohio.

Dated at Bethesda, Maryland, this 14th day of August, 1984.

For the Nuclear Regulatory Commission.

**Darrell G. Eisenhut,**

*Director, Division of Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 84-22063 Filed 8-17-84; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF PERSONNEL MANAGEMENT

### Federal Prevailing Rate Advisory Committee; Open Committee Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, September 20, 1984
Thursday, September 27, 1984

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202) 632-9710.

Dated: August 13, 1984.

**William B. Davidson, Jr.,**

*Chairman, Federal Prevailing Rate Advisory Committee.*

[FR Doc. 84-21996 Filed 8-17-84; 8:45 am]

BILLING CODE 6325-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-21239; File No. SR-CBOE-84-21]

## Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.; Position and Exercise Limit Exemption Procedures

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 26, 1984 the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Text of the Proposed Rule Change

Additions are italicized; deletions are bracketed.

*Position Limits*

Rule 4.11 Except with the prior written permission of the President or his designee, no member shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange in any option contract dealt in on the Exchange if the member has reason to believe that as a result of such transaction the member or its customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate position in excess of [2,500 or] 4,000 *or 6,000 or 8,000* option contracts (whether long or short) of the put class and the call class on the same side of the market respecting the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Board as the position limit for one or more classes or series of options. Reasonable notice shall be given of each new position limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange. [Whether a 1] *Limits* [is 2,500 or 4,000 option contracts] shall be determined in the manner described in Interpretation .02 below.

. . . Interpretations and Policies:

.01 No change

.02 The [2,500] *4,000* option contract limit applies to those options having an underlying security that does not meet the requirements for [the 4,000] *a higher* option contract limit. To be eligible for the [4]*6*,000-contract limit, either the most recent six-month trading volume of the underlying security must have totalled at least 20,000,000 shares; or the most recent six-month trading volume of th eunderlying security must have totalled at least 15,000,000 shares and the underlying security must have at least 60,000,000 shares currently outstanding. *To be eligible for the 8,000-contract limit, either the most recent six-month trading volume of the underlying security must have totalled at least 40,000,000 shares; or the most recent six-month trading volume of the underlying security must have totalled at least 30,000,000 shares and the underlying security must have at least 120,000,000 shares currently outstanding.* Every six months, the Exchange will review the status of underlying securities to determine which limit should apply. [The 4,000] *A higher* limit will be effective on the date set by the Exchange, while any change [from a 4,000 to a 2,500] *to a lower* limit will take effect after the last expiration then trading, unless the requirement for *the same or* a [4,000] *higher* limit is met at the time of the intervening six-month review.

*Exercise Limits*

Rule 4.12. Except with the prior written permission of the President or his designee, no member shall exercise, for any account in which it has an interest or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange where such member or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five consecutive business days aggregate long positions in excess of [2,500 or] 4,000 *or 6,000 or 8,000* option contracts of that class of options or such other number of option contracts as may be fixed from time to time by the Board as the exercise limit for that class of options. Reasonable notice shall be given of each new exercise limit fixed by the Board by posting notice thereof on the bulletin board of the Exchange. [Whether a 1] *Limits* [is 2,500 or 4,000 option contracts] shall be determined in the manner described in Interpretation .02 to Rule 4.11.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to increase the Exchange's equity option position and exercise limits in order to add to market depth and liquidity. In 1978 the Special Study of the Options Markets recommended that existing Exchange rules, which limited the size of options positions held by market participants, be reviewed and that their relaxation or elimination be considered. As a result of the most recent re-examination of position limits the Exchange proposed rule changes which were approved in July of 1983 to raise position and exercise limits from 2,000 to 2,500 and 4,000 contracts. In view of the increased use of the options markets and the experience gained during the year since this last increase, the Exchange believes that it is appropriate at this time to increase further the position and exercise limits.

The Commission made the following statement in its release approving a position and exercise limit increase in 1980. (Release No. 34-17237). The Exchange believes that this statement is still appropriate.

> * * * there is substantial reason to believe that the current ceiling serves to constrict significantly the options activities of certain market professionals and institutions, possibly to the detriment of market depth and liquidity. In addition, the Commission believes that the surveillance capabilities of the options exchanges with respect to large options positions should minimize the possibility of manipulation. Finally, the Commission believes that the information and experience gained from approval of the proposed modification will enhance the ability of the options exchanges and the Commission to responsibility propose and effectively evaluate possible further modification * * *

It should be noted that position limits cannot be justified as a protection against financial exposure. While unhedged larger positions do entail larger financial risks, position limits are cumbersome and ineffective mechanisms for limiting those risks. Rather, those rules which have been designed specifically to limit risk exposure should be used for this purpose, namely, suitability, margin, and net-capital rules.

The proposed increases involve standards that are a protection against possible manipulation. The standards in Interpretation .02 to Rule 4.11 will insure that only option contracts having an underlying security that has either very high trading volume or high trading volume and a high number of outstanding shares receive the higher limits.

Thus, the options (and stocks) involved are significantly less susceptable to manipulation.

Every six months, the Exchange will review the status of underlying securities to determine which limit should apply, and three lists shall be published in the Exchange Bulletin. An increased limit will be effective on the date set by the Exchange, which date will allow time for appropriate notice to be given. A decreased limit will take effect after the last expiration then trading, unless the requirements for the same or a higher limit are met at the time of the intervening six-month review.

The basis for this proposed rule change in section 6(b)(5) of the Securities Exchange Act of 1934 (the Act), in that the change would increase market depth and liquidity, which is in the public interest, while continuing to protect investors from manipulative activity.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change creates any burden on competition not necessary or appropriate under the Act.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Formal comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 10, 1984.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 14, 1984.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 84-22003 Filed 8-17-84; 8:45 am]

BILLING CODE 8010-01-M

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## Self-Regulatory Organizations; Boston Stock Exchange Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 13, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Sambo's Restaurants, Inc.
  Common Stock, No Par Value, File No. 7-7779
Super-Valu Stores, Inc.
  Common Stock, $1.00 Par Value, File No. 7-7780
Southwest Bankshares, Inc.
  Common Stock, $5.00 Par Value, File No. 7-7781
Stanley Works
  Common stock, $2.50 Par Value, File No. 7-7782
Standex International Corp.
  Common Stock, No Par Value, File No. 7-7783
Saxon Industries, Inc.
  Common Stock, $.25 Par Value, File No. 7-7784
Talley Industries, Inc.
  Common Stock, $1.00 Par Value, File No. 7-7785
Tab Products, Inc.
  Common Stock, No Par Value, File No. 7-7786
Torchmark Corp.
  Capital Stock, $2.00 Par Value, File No. 7-7787

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 4, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 84-22004 Filed 8-17-84; 8:45 am]

BILLING CODE 8010-01-M

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## Self-Regulatory Organizations; Boston Stock Exchange Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 13, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Tri-State Motor Transit Co.
  Common Stock, $.66⅔ Par Value, File No. 7-7788
Tultex Corp.
  Common Stock, $1.00 Par Value, File No. 7-7789
Universal Resources Corp.
  Common Stock, $.50 Par Value, File No. 7-7790

VF Corp.
Common Stock, No Par Value, File No. 7–7791
Vishay International Industries, Limited
Common Stock, $.10 Par Value, File No. 7–7792
Westbourne International Industries, Limited
Common Stock, No Par Value, File No. 7–7793
Willcox & Gibbs, Inc.
Common Stock, $1.00 Par Value, File No. 7–7794
Wisconsin Power & Light
Common Stock, $10.00 Par Value, File No. 7–7795
Zero Corp.
Common Stock, $1.00 Par Value, File No. 7–7796

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 4, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 84–22005 Filed 8–17–84; 8:45 am]

BILLING CODE 8010–01–M

## SMALL BUSINESS ADMINISTRATION

**[Application No. 05/05–5198]**

### The Wisconsin MESBIC, Inc.; Application for License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102(a) of the Regulations (13 CFR 107.102(a) (January 1, 1984)), by the Wisconsin MESBIC, Inc. (the Applicant), 622 North Water Street, Suite 500, Milwaukee, Wisconsin 53202 for a license to operate as a small business investment company (SBIC) under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et sec.*).

The officers, directors and 10 percent or more shareholders of the Applicant are:

| Name and address | Title or relationship | Percent of ownership |
|---|---|---|
| Charles A. McKinney, Attorney at Law, Quarles & Brady, 780 North Water St., Milwaukee, WI 53202. | Chairman of the Board and Director. | 0 |
| John T. Williams, 622 North Water St., Milwaukee, WI 53202. | President, Chief Executive Officer and Director. | 0 |
| William P. Beckett, Economic Development Manager, Wisconsin Power & Light Co., 222 West Washington Ave., Madison, WI 53701. | Vice President and Director. | 0 |
| Jerry G. Remmel, Treasurer, Wisconsin Power & Light Co., 231 West Michigan Ave., Milwaukee, WI 53203. | Treasurer and Director. | 0 |
| Charles W. Riley, Forecast Manager, Miller Brewing Co., 3939 West Highland Blvd., Milwaukee, WI 53208. | Secretary and Director. | 0 |
| Bill Kostecke, Vice President and Treasurer, Wisconsin Gas Co., 626 East Wisconsin Ave., Milwaukee, WI 53202. | Assistant Treasurer. | 0 |
| Helen I. Barnhill, President, Barnhill-Hayes, Inc., 788 North Jefferson St., Milwaukee, WI 53202. | Assistant Secretary and Director. | 0 |
| Dennis Brown, Corporate Controller, Allen-Bradley Co., 1201 South 2nd St., Milwaukee, WI 53202. | Director | 0 |
| Lyles Ibeling, Vice President-Securities, Cuna Mutual Investment Corp., 5910 Mineral Point Rd., Madison, WI 53701. | Director | 0 |
| Bernard Beal, Public Finance-New Business, E. F. Hutton Co., One Battery Park Plaza, New York, NY 10004. | Director | 0 |
| Robin Irwin, Director of Administration and Legal Affairs, The Marcus Corp., 212 West Wisconsin Ave., Milwaukee, WI 53203. | Director | 0 |
| Ross Langill, Vice President and Syndicate Manager, The Milwaukee Co., 250 East Wisconsin Ave., Milwaukee, WI 53202. | Director | 0 |
| Thomas C. Christofferson, Investment Officer-Securities, Northwestern Mutual Life Insurance Co., 729 East Wisconsin Ave., Milwaukee, WI 53202. | Director | 0 |
| Darrell Wilde, Sr., Vice President, Universal Foods, 433 East Michigan Ave., Milwaukee, WI 53202. | Director | 0 |
| Aid Association for Lutherans, 4321 North Ballard Rd., Appleton, WI 54919. | Shareholder | 10 |
| American Family Insurance Co., P.O. Box 7430, Madison, WI 53783. | Shareholder | 10 |
| Miller Brewing Co., 3939 West Highland Blvd., Milwaukee, WI 53208. | Shareholder | 10 |
| Northwestern Mutual Life Insurance Co., 729 East Wisconsin Ave., Milwaukee, WI 53202. | Shareholder | 10 |
| Sentry Insurance Co., 1800 North Point Dr., Stevens Point, WI 54481. | Shareholder | 10 |
| Wausau Insurance Co., 2000 Westwood Dr., Wausau, WI 54401. | Shareholder | 10 |

The Applicant will begin operations with a capitalization of $1,000,000 and will conduct its activities principally in the State of Wisconsin.

As an SBIC licensed to operate under Section 301(d) of the Act, the Applicant will provide financial and management assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantage.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management and probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Milwaukee, Wisconsin.

Dated: August 13, 1984.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 84–21971 Filed 8–17–84; 8:45 am]

BILLING CODE 8025–01–M

## Office of The United States Trade Representative

### Determination Regarding the Withdrawal, From Warehouse of Certain Stainless Steel Bar

**SUMMARY:** This notice permits the withdrawal from warehouse for consumption of not more than three tons of certain stainless steel bar, presently subject to quota.

**EFFECTIVE DATE:** August 15, 1984.

**FOR FURTHER INFORMATION CONTACT:** Maria T. Springer, Office of the United States Trade Representative, (202) 395–4946.

**SUPPLEMENTARY INFORMATION:** Presidential Proclamation 5074 of July 19, 1983 (48 FR 33233), provides for the

temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel imported into the United States. Headnote 10(d), part 2A of the Appendix to the Tariff Schedules of the United States (TSUS) authorizes the U.S. Trade Representative to adjust the restraint level for any such steel to be exceeded during any restraint period.

Accordingly, I have determined that an amount not to exceed three short tons of the following stainless steel bar, provided for in Tariff Schedules of the United Stated (TSUS) item 926.10, may be entered for consumption or withdrawn from Customs bonded warehouse, in excess of the restraint level provided for the period July 20, 1984—October 19, 1984 for the "Other" foreign country category:

Stainless steel bar, annealed and ground, not less than 5.27 millimeters and not more than 5.30 millimeters in diameter, containing, in addition to iron, each of the following elements by weight in the amount specified:

Carbon: not less than 0.82 percent; not more than 0.98 percent
Silicon: not more than 1.05 percent
Manganese: not more than 1.03 percent
Chromium: not less than 16.8 percent; not more than 19.2 percent
Molybdenum: not less than 0.85 percent; not more than 1.35 percent
Vanadium: not less than 0.04 percent; not more than 0.15
Phosphorous: not more than 0.055 percent
Sulphur: not more than 0.035 percent

certified by the importer of record or the ultimate consignee at the time of entry for use in the manufacture of gasoline fuel injectors.

In addition, an identical amount shall be deducted from the quota quantity allocated to the "Other" foreign country category for TSUS 926.10 for the restraint period October 20, 1984—January 19, 1985. This determination supersedes the provisions of the notice of October 20, 1983 (48 FR 48888), to the extent inconsistent herewith.

**Willian E. Brock,**

*United States Trade Representative.*

[FR Doc. 84-22057 Filed 8-17-84; 8:45 am]

BILLING CODE 3190-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### National Airspace Review; Meeting

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of Meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 2-3 of the Federal Aviation Administration National Airspace Review Advisory Committee. The agenda for this meeting is as follows: Consideration of possible requirements relating to communications, air traffic control procedures, and flight operations for aircraft operating between the altitudes of 10,000 and 18,000 feet Mean Sea Level (MSL).

**DATE:** Beginning Monday, September 5, 1984, at 11 a.m., countinuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

**ADDRESS:** The meeting will be held at the Federal Aviation Administration, conference room 7A/B, 800 Independence Avenue, SW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, 426-3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Associate Administrator for Air Traffic, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by August 29. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C., on August 10, 1984.

**Karl D. Trautmann,**

*Manager, Special Projects Staff, Office of the Associate Administrator for Air Traffic.*

[FR Doc. 84-21991 Filed 8-17-84; 8:45 am]

BILLING CODE 4910-13-M

### Radio Technical Commission for Aeronautics (RTCA), Special Committee 142—Air Traffic Control Radar Beacon System/Mode S (ATCRBS/MODE S) Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 on Air Traffic Control Radar Beacon System/Mode S (ATCRBS/MODE S) Airborne Equipment to be held on September 11-12, 1984, in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of the Thirteenth Meeting Held on May 8-9, 1984 (3) Reports and Discussion on Open System Interface (OSI) Issues; (4) Presentation on the Aeronautical Radio, Incorporated (ARINC) ACARS II System and its Relationship to Mode S; (5) Report by FAA on Latest Changes to the Mode S Data Link National Standard; (6) Reports from Working Groups Drafting Sections for the Committee Report on Minimum Operational Performance Standards for Data Link (7) Consideration of Proposed Changes to RTCA Document No. DO-181 on Minimum Operational Performance Standards for Air Traffic Control Radar Beacon System/Mode Select (ATCRBS/MODE S) Airborne Equipment; (8) Review of the International Civil Aviation Organization (ICAO) SICASP Work and the Eurocontrol Recommended Changes to the Mode S National Standard; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on August 13, 1984.

**Karl F. Bierach,**

*Designated Officer.*

[FR Doc. 84-21989 Filed 8-17-84; 8:45 am]

BILLING CODE 4910-13-M

### Federal Railroad Administration

**[Docket RSPC-84-1; Notice I]**

### Rail Passenger Equipment; Guidelines for Selecting Materials To Improve Their Fire Safety Characteristics

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of Guidelines.

**SUMMARY** FRA is issuing guidelines containing performance criteria for the flammability and smoke emission characteristics of materials to be used in the construction of new or rebuilt rail passenger cars. The guidelines also

contain recommended testing methods for determining whether materials meet the performance criteria. FRA's guidelines are based on similar recommendations issued by the Urban Mass Transportation Administration (UMTA) for the rapid transit industry.

**FOR FURTHER INFORMATION CONTACT:** Philip Olekszyk, Deputy Associate Administrator for Safety, Federal Railroad Administration, Washington, DC 20590, Telephone 202-426-0896.

**SUPPLEMENTARY INFORMATION:** Section 702 of the Rail Safety and Service Improvement Act of 1982 (Pub. L. 97-468), enacted on January 14, 1983, amended section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) to require the issuance of any necessary rules relating to rail passenger equipment and a report to Congress. In that report, FRA concluded that rail passenger service has complied an excellent safety record, one that can be attributed to the rail industry's operational and safety practices as well as the effect of FRA's extensive safety regulations.

To enhance that record, FRA is undertaking five safety initiatives: (1) A final rule extending its Track Safety Standards (49 CFR Part 213) to include all tack used exclusively for communter service; (2) a final rule amending its Power Brake Standards (49 CFR Part 232) to preserve the inspection and testing requirements for passenger car brake equipment; (3) a safety inquiry to assess the potential impact of technological changes in rail passenger equipment; (4) a joint FRA-industry examination of emergency procedures; and (5) these guidelines. The public notices concerning the first three actions appeared in the **Federal Register** on January 17, 1984 (49 FR 1987).

## Background

Twenty rail passenger operators, including commuter authorities, provide regularly scheduled rail passenger service over 138 distinct routes totalling 28,500 route miles. In 1982, this group operated more than 1.5 million trains and carried 334 million passengers.

A wide variety of equipment of differing age and design features is dedicated to providing this service. More than 750 diesel-electric and electric locomotives are used to haul 3,770 passenger-carrying coaches and control cab cars. In addition, approximately 3,000 self-propelled, passenger-carrying units, which include diesel-electric, electric, and turbo powered equipment, are in service.

Rail passenger service in the United States has compiled a remarkable safety record, which is reflected in the passenger casualty statistics derived from reports filed with FRA by all railroads (including the commuter authorities) under its accident reporting rules (49 CFR Part 225). During the period 1978 through 1982, when the rail passenger industry carried 1.5 billion passengers, only 10 passenger fatalities and 1,006 passenger injuries resulted from train operations.

The occurrence of casualty-threatening fires on rail passenger equipment is rare. In the five-year study period, only three fires involving on-track passenger equipment resulted in passenger equipment resulted in passenger casualties. The most serious of these involved a fire that occurred aboard an Amtrak sleeping car near Gibson, California, on June 23, 1982. That incident illustrates that, despite its rarity, every car fire is a potential tragedy. Two passengers were killed in the accident and more than 50 others required treatment for smoke inhalation.

FRA is issuing these guidelines to help minimize the risk of such fires and thereby reduce the potential for casualties and property loss. FRA believes that recent trends in the design and construction of rapid rail transit and light rail transit vehicles have resulted in the increased use of flammable, non-metallic materials such as plastics and elastomers for vehicle components, particularly interior components in rail passenger equipment. These materials are usually more flammable than those materials they replace. This fire threat can be reduced by considering the flammability and smoke emission characteristics of materials selected for use in the interior of cars being constructed or rebuilt. However, FRA believes that the fire threat associated with the choice of non-metallic materials may not be recognized by some designers. In addition, those charged with procurement of new passenger cars of rebuilding existing equipment may overlook the flammability and smoke emission characteristics of materials selected because of other desirable properties such as wear, impact resistance, maintainability and weight.

The guidelines provide recommended performance criteria for the flammability and smoke emission characteristics of materials used to construct such equipment features as seat cushions, frames, shrouds and upholstery, wall panels, ceilings, partitions, windscreens, air conditioning ducts, windows, light diffusers, flooring and floor coverings, insulation (thermal, acoustic, and vibration), component box covers, and exterior shell. In addition, the guidelines contain standard test procedures to permit uniform data acquisition and data comparability.

FRA's guidelines mirror those of UMTA. The UMTA guidelines were developed, beginning in 1973, with the assistance of DOT's Transportation System Center, rail transit authorities, and material manufacturers. The UMTA guidelines were most recently revised and presented for public comment on November 26, 1982 (47 FR 53559).

UMTA has sponsored considerable research on the flammability and smoke emission characteristics of various materials commonly used in the construction of rail transit passenger equipment and, since new materials are frequently introduced into the marketplace, will continue such research efforts. The Transportation Systems Center has performed some of this material testing for UMTA; it currently maintains a list of materials and products that meet the UMTA guidelines. These materials are also tested at the Federal Aviation Administration's test center in Atlantic City, New Jersey. All of the flammability and smoke emission test data are available from the Department to interested parties.

Although the 1974 UMTA guidelines were intended for transit equipment, a number of railroads and commuter service operators have required that manufacturers and builders meet these UMTA guidelines or similar standards when they purchase new equipment. FRA believes that all passenger service providers should be aware of the flammability and smoke emission problem in material selection and should adhere to these guidelines in the procurement of all new and rebuilt equipment. The degree of voluntary adherence to these guidelines will strongly influence future FRA determinations on appropriate actions to be taken in this important area.

## *Recommended Fire Safety Practices for Rail Passenger Car Materials Selection*

### Application

This document provides recommended fire safety practices for testing the flammability and smoke emission characteristics of materials used in the construction of rail passenger vehicles.

### *Referenced Fire Standards*

The source of test procedures listed in Table 1 are as follows:

(1) Leaching Resistance of Cloth, FED-STD-191A-Textile Test Method 5830.

Available from: General Services Administration, Specifications Division, Bldg. 197, Washington Navy Yard, Washington, DC 20407.

(2) Federal Aviation Administration Vertical Burn Test, FAR-25.853.

Available from: U.S. Government Printing Office, Washington, DC 20402.

(3) American Society for Testing Materials (ASTM).

(a) Specification for Gaskets, ASTM C-542.

(b) Surface Flammability of Flexible Cellular Materials Using a Radiant Heat Energy Source ASTM D-3675.

(c) Fire Tests of Building Construction and Materials, ASTM E-119.

(d) Surface Flammability of Materials Using a Radiant Heat Energy Source, ASTM E-162.

Available from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(4) National Fire Protection Association (NFPA).

(a) Flooring Radiant Panel Test, NFPA-253.

(b) Smoke Generated by Solid Materials NFPA-258.

Available from: National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

(5) American Association of Textile Chemists and Colorists, Test (AATCC-86).

Available from: American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, NC 27709.

(6) Electrical Insulation Fire Characteristics, Volume I: Flammability Tests, UMTA-MA-06-0025-79-1, PB-294 840/4WT.

Electrical Insulation Fire Characteristics, Volume II: Toxicity, UMTA-MA-06-0025-79-2, PB-294 841/4WT.

Available from: The National Technical Information Service, Springfield, VA 22161.

In all instances the most recent issue of the document or the revision in effect at the time of request should be employed in the evaluation of the materials specified herein.

*Definition of Terms*

1. Critical Radiant Flux (CRF) as defined in NFPA 253 is a measure of the behavior of horizontally mounted floor covering systems exposed to flaming ignition source in a graded radiant heat energy environment in a test chamber.

2. Flame spread index ($1_s$) as defined in ASTME-162 is a factor derived from the rate of progress of the flame front ($F_s$) and the rate of heat liberation by the material under test (Q), such that $I=FQ$.

3. Special optical density ($D_s$) as defined in NFPA 258 is the optical density measured over unit path length within a chamber of unit volume, produced from a specimen of unit surface area, that is irradiated by a heat flux of 2.5 watts/em for a specified period of time.

4. Surface flammability denotes the rate at which flames will travel along surfaces.

5. Flaming running denotes continuous flaming material leaving the site of material burning or material installation.

6. Flaming dripping denotes periodic dripping of flaming material from the site of material burning or material installation.

*Recommended Test Procedures and Performance Criteria*

(a) The materials used in rail passenger vehicles should be tested according to the procedures and performance criteria set forth in Table 1.

(b) Owners and operators should require certification that combustible materials to be used in the construction of vehicles have been tested by a recognized independent testing laboratory, and that the results are within the recommended limits.

(c) Although there are no Recommended Fire Safety Practices for electrical insulation materials, information pertinent to the selection and specification of electrical insulation for use in transit fire environments is contained in the following UMTA reports:

1. Electrical Insulation Fire Characteristics, Volume, I, Flammability Tests, December 1978.

2. Electrical Insulation Fire Characteristics, Volume, II, Toxicity, December 1978.

**Notes**

1. Materials tested for surface flammability should not exhibit any flaming running or flaming dripping.

2. Flammability and smoke emission characteristics should be demonstrated to be permanent by washing, if appropriate, according to FED-STD-191A Testile Test Method 5830.

3. Flammability and smoke emission characteristics should be demonstrated to be permanent by dry-cleaning, if appropriate, according to AATCC-86. Materials that cannot be washed or dry cleaned should be so labeled and should meet the applicable performance criteria after being cleaned as recommended by the manufacturer.

4. For double window glazing, the interior glazing should meet the materials requirements specified herein, the exterior glazing need not meet those requirements.

5. NFPA-258 maximum test limits for smoke emission (specific optical density) should be measured in either the flaming or non-flaming mode, depending on which mode generates the most smoke.

6. Structural flooring assemblies should meet the performance criteria during a nominal test period determined by the transit property. The nominal test period should be twice the maximum expected period of time, under normal circumstances, for a vehicle to come to a complete, safe stop from maximum speed, plus the time necessary to evacuate all passengers from a vehicle to a safe area. The nominal test period should not be less than 15 minutes. Only one specimen need be tested.

7. Carpeting should be tested in accordance with NFPA-253 with its padding, if the padding is used in actual installation.

(Secs. 202 and 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 431 and 437); section 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n))

Issued in Washington, D.C., on August 10, 1984.

**John H. Riley,**

*Administrator.*

[FR Doc. 84-22071 Filed 8-17-84; 8:45 am]

BILLING CODE 4910-06-M

# Sunshine Act Meetings

Federal Register
Vol. 49, No. 162
Monday, August 20, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

**SECURITIES AND EXCHANGE COMMISSION**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** (49 FR 31363 August 6, 1984).

**STATUS:** Closed meeting.

**PLACE:** 450 Fifth Street, NW., Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** Tuesday, July 31, 1984.

**CHANGE IN THE MEETING:** Additional meeting.

The following item was considered at a closed meeting held on Friday, August 10, 1984, at 11:00 a.m.

Regulatory matter bearing enforcement implications.

Chairman Shad and Commissioners Treadway and Cox determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Kohn at (202) 272-3195.

Dated: August 15, 1984.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 84-22121 Filed 8-16-84; 12:00 pm]

BILLING CODE 8010-01-M

federal register

Monday
August 20, 1984

# Part II

# Department of Transportation

## Federal Aviation Administration

14 CFR Part 93

**Elimination of Airport Delays; Proposed Rulemaking**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 93**

**[Docket No. 24206; Notice 84-14]**

## Elimination of Airport Delays

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The notice discusses the placement of scheduling restrictions at a number of airports including the high density airports. It also discusses an enforcement mechanism which would be utilized if air carriers agree to a voluntary method of allocation. This proposal is aimed at eliminating increased delays throughout the air traffic system and ensuring the efficient operation of the Nation's airspace system. If this proposed rule becomes final it would terminate on April 1, 1985.

**DATE:** Comments must be received on or before September 4, 1984.

**ADDRESS:** Send comments on the proposal in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24206, 800 Independence Avenue, SW., Washington, D.C. 20591

or deliver comments in duplicate to:

FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Edward P. Faberman, Acting Chief Counsel, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 426-3773.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in this regulatory action by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24206." The postcard will be date/time stamped and returned to the commenter. All communications received between the specified opening and closing dates for comments will be considered by the Administrator before taking action on any further rulemaking. Also, this rule may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591; or by calling (202) 426-8058. Communications must identify the notice number of the document.

### Background

A number of the Nation's airports are operating at or near their design capacity during certain hours of the day, and severe congestion and delay problems are damaging the efficiency of the airspace system. Air traffic system capability will continue to increase; however, corresponding capacity does not exist at most major airports. As a result of runway, taxiway and other groundside restrictions, the number of aircraft operations that can be accommodated is not unlimited.

Since June 1981, the number of operations at the Nation's 22 largest airports has increased by 8 percent. Dramatic increases in operations have occurred at some of the airports, including Denver with a 20 percent increase and Newark with a 62 percent increase. In June 1984, a total of 40,852 delays were recorded, the highest number ever recorded in any one month. This number is a 105 percent increase over June 1983. Between January and June 1984, there were a total of 189,473 recorded delays for an increase of 73 percent over the same period in 1983. Delays at six airports (La Guardia, Kennedy, O'Hare, Atlanta, Denver and Newark) account for 76 percent of the delays. No other airport accounts for more than 5 percent.

Delays in the air traffic control system are a function of technological capacity, controller staffing, availability of runways at airports, weather conditions at airports and en route, and aircraft demand. The current level of delays can be attributed to all these factors. The number of scheduled airline flights has been increasing. At the same time, staffing at towers and centers is still being rebuilt. Weather is always a factor in system performance and has caused much of this summer's delays. Technology, which will expand the system's capacity, will be available over the next few years. Future airport capacity depends on the decision to build new runways or terminals.

The agency's primary concern is not necessarily the total number of operations at a particular airport but the concentration or hubbing of a majority of those operations within a short period of time.

This hubbing is found at most major airports throughout the country. At Atlanta Hartsfield International the following scheduling exists. Similar patterns could be shown at other airports.

ATLANTA HARTSFIELD INTERNATIONAL

| Time period | Number of commercial operations scheduled |
|---|---|
| 08:00-08:30 | 95 |
| 08:30-09:00 | 10 |
| 09:00-09:30 | 99 |
| 09:30-10:00 | 59 |
| 10:00-10:30 | 26 |

Although in most cases the air traffic system is fully capable of handling the current hourly total of these operations if spread throughout each hour and the entire day, the existing scheduling practice is placing increasing numbers of aircraft at the airports and is resulting in major air traffic delays.

It must be emphasized that regardless of the total number of scheduled operations, the safety of the air traffic system is not lessened. Air traffic procedures, including flow control, ensure that aircraft remain on the ground until they can be accommodated. However, imposition of ground delays seriously impacts ground facilities, including causing gate and ramp congestion. Holding large numbers of aircraft at the departure airports also severely impacts the efficiency of the air traffic system. While this procedure assures safety, the amount of time expended on imposing ground delays and controlling ground operations results in multiplication of delay.

The FAA develops performance standards for all airports. Those standards are an average based upon all possible runway configuration and weather conditions. When demand

exceeds these capacity limitations, the agency believes that some form of restriction is necessary to ensure the efficient operation of the airspace system. The agency believes that whatever restrictions are selected, they must be designed to fully use airport capacity while at the same time reflect the capacity of the air traffic system. The agency has and will continue to implement programs which provide for more efficient utilization of the airspace. As previously stated, although those programs allow for an increase in capacity they will not provide for the handling of an unlimited number of aircraft operations.

Therefore, the FAA proposes to place additional limitations at the following airports: Chicago O'Hare International, New York LaGuardia and John F. Kennedy International, Atlanta Hartsfield International, Denver Stapleton International, and Newark International Airports. These are airports which are already facing severe aircraft congestion and which account for 76 percent of the total delays currently being experienced.

The agency would prefer not to independently establish congestion limitations. Eastern Airlines has requested that the Civil Aeronautics Board (CAB) grant antitrust immunity to allow carriers to engage in multilateral discussions, under the auspices of the FAA, designed to achieve scheduling adjustments that would reduce delays.

The Department has filed comments with the CAB in support of the Eastern request. If the carriers fail to agree on scheduling adjustments, the agency will be forced to consider imposing limitations as set forth below. If the proposal is implemented, it would terminate on April 1, 1985.

### Congestion Limitation Proposal

At each of the airports covered by this proposal, the FAA has identified which hours are seriously congested. The FAA will establish the maximum number of arrivals and departure operations that can be conducted for each of those hours assuming that the operations are evenly spaced over the hour. Those specific hours at each airport to which congestion limitation measures are to be applied and the applicable capacity limitations are listed in Appendix 1 to this document. During those hours, a specific number of those slots would be tagged as air carrier slots, commuter slots, and "other" operation slots. The slots for each category of operator would be assigned specific times, designated as arrival or departure slots, and spread as evenly as possible through the hour. The final result of this process would be that every arrival or departure slot during the specified hours at the covered airports would be tagged to a specific category of operator and to a specific time.

The FAA will then assign air carriers (including foreign carriers) and commuter operators tagged slots at times as close as possible to the times they are currently operating. The Official Airline Guide schedules would be used as the basis for the assignments. It should be noted that during certain hours of the day there are currently more scheduled operations than the airports can handle and, therefore, some carriers will be assigned times for their flights in different hours. A lottery would be held to determine which currently scheduled flights in each hour would have to be moved. However, carriers will not be precluded from maintaining their total number of operations per day and in fact may increase them (except at the high density airports during the hours that the High Density Rule is in effect).

"Other" operators, including general aviation and charter operators, will be able to obtain slots for operations in the specified hours through a reservation system for each covered airport.

Incumbent and new entrant air carriers and incumbent and new entrant commuter operators could request air carrier and commuter slots, respectively, that are not already assigned. At the end of each month, the requesting operator would be assigned any slot it requests that is not requested by another operator. If more than one operator requests the same slot, a drawing would be held to decide to whom the slot would be assigned.

### Enforcement Mechanisms

Full compliance by the carriers is essential. The FAA has recorded numerous violations of the current High Density Rule restrictions, which implement scheduling committee agreements, and the agency would expect that violations of any new agreements to realign schedules or any new rules for that purpose would occur absent a strong commitment to enforcement by the agency and the imposition of adequate penalties.

Therefore, the FAA will commit itself to aggressive enforcement of any agreements reached by the carriers to realign schedules. To accomplish this, the agency will prohibit all operators from changing the schedule times of arrivals and departures from those schedules agreed to under CAB-approved discussions. The agency hopes that the carriers themselves will police their own operations and report any documented violations of the agreements to the FAA. The FAA, itself, will upgrade its monitoring of published airline schedules and actual airline operations through review of air traffic control records. Violations will be treated very seriously.

The FAA is proposing to adopt a specific rule prohibiting any violations of the carrier agreements. Under the Federal Aviation Act, each violation of such a regulation would be subject to a civil penalty of $1,000.

If the carriers are unable to reach agreements or the CAB rejects the Eastern petition and the FAA issues the scheduling rules proposed in this notice, the FAA would adopt a rule providing for civil penalty enforcement for violations of the restrictions imposed by the agency.

### Comment Period

Airport delays have reached unacceptable proportions at many of the Nation's airports. Lengthy rulemaking proceedings to alleviate the congestion and the resultant burdens on this Nation's transportation system would not be in the public interest. Moreover, the CAB has provided for expedited consideration of Eastern's petition to permit carrier discussions about scheduling. The agency wants to complete this rulemaking, including consideration of all comments, making any necessary adjustments to the proposal, and preparing a final rule, in a time frame that coincides as closely as possible with the CAB's consideration of Eastern's petition. Therefore, the FAA is only providing for a 14-day comment period on this NPRM.

### Regulatory Flexibility Determination

This proposal would merely require adjustments of schedules during limited hours during the day, and, should not, therefore, have a significant economic impact on a substantial number of small air carriers or air taxis or other small entities. The procedures for allocating the airport capacity will ensure it is distributed evenly over all users and no single entity will realize a disproportionate economic benefit or detriment as a result of the regulation. The overall economic impact of this proposal is expected to be minimal, therefore a full regulatory evaluation has not been prepared.

### International Trade Impact Analysis

This proposal will not significantly influence international trade involving aviation products or services. While commercial considerations may result in some or even all of the slots created by

this proposal being used to perform international air services, the procedures for allocating the slots ensure that all potential users, national and foreign, have a fair and equal opportunity to utilize the slots. Therefore, the FAA certifies that this proposal will not eliminate existing or create additional barriers to the sale of foreign aviation products or services in the United States and will not eliminate existing or create additional barriers to the sale of U.S. aviation products and services in foreign countries.

(Secs. 103, 307, 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1303, 1348, 1354(a) and 1421(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and § 11.49 of the Federal Aviation Regulations (14 CFR 11.49)))

**Note.**—For the reasons set forth in this notice: (1) The FAA has determined that the proposal does not involve a major proposal under Exective Order 12291 and (2) is significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and I certify that under the criteria of the Regulatory Flexibility Act, this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

## List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Alaska, Navigation (air).

Issued in Washington, D.C. on August 15, 1984.

**Donald D. Engen,**

*Administrator.*

## Appendix 1—Effective Hours of Total Operations Allowed

| | |
|---|---|
| EWR—0800-0959; 1700-1859 | 68 operations per hour not to exceed 33 arrivals. |
| LGA—0800-0595; 1600-1859 | 68 operations per hour not to exceed 33 arrivals. |
| ATL—0700-0959; 1600-1759 | 120 operations per hour not to exceed 75 arrivals. |
| DEN—0800-1159; 1600-1859 | 120 operations per hour not to exceed 60 arrivals. |
| ORD—1700-1959 | 155 operations per hour not to exceed 77 arrivals. |
| JFK—1500-1759 | 90 operations per hour not to exceed 45 arrivals. |

**Note.**—Departure capacity usually exceeds arrival capacity on any given runway configuration.

[FR Doc. 84-21964 Filed 8-15-84; 12:30 pm]

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federal register

Monday
August 20, 1984

# Part III

# Department of Labor

## Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57

Safety Standards for Explosives; Notice of Availability of Preproposal Draft

**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**30 CFR Parts 55, 56, and 57**

**Safety Standards for Explosives**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice of availability of preprosal draft.

**SUMMARY:** The Mine Safety and Health Administration (MSHA) has developed a preproposal draft of revisions to current explosives standards for the metal and nonmetal mining industry. MSHA seeks comments from all interested parties on the preproposal draft. Copies of the draft may be obtained by contacting the Agency.

**DATES:** Comments must be received on or before October 19, 1984.

**ADDRESSES:** Send comments to the Office of Standards, Regulations, and Variances; MSHA; Room 631, Ballston Towers #3; 4015 Wilson Boulevard, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA (703) 235-1910.

**SUPPLEMENTARY INFORMATION:** On March 25, 1980, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (45 FR 19267) announcing its comprehensive review of existing metal and nonmetal mine safety and health standards in 30 CFR Parts 55, 56, and 57. The Agency is reviewing the standards to eliminate duplicative and unnecessary standards, provide alternative methods of compliance, reduce recordkeeping requirements, and upgrade provisions consistent with advances in mining technology MSHA believes this review will result in more effective regulations for assuring the safety and health of miners. The review is consistent with the specific goals of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

On November 20, 1981, MSHA published a subsequent ANPRM in the **Federal Register** (46 FR 57253), listing eight sections the Agency had selected for priority review. Standards dealing with explosives, contained in section .6 of 30 CFR Parts 55, 56, and 57, were included in the priority group.

On March 9, 1982, MSHA published a notice in the **Federal Register** (47 FR 10190) anouncing public conferences to discuss issues related to the standards under priority review. The section .6 conferences were held in the spring of 1982. During the conferences, many commenters requested that the Agency make available a preproposal draft of the standards under review before issuing a proposed rule.

MSHA has not completed development of the preproposal draft for section .6. In addition to revising the substance of the existing standards, the Agency has reorganized Parts 55, 56, and 57 into two Parts: 56 and 57. This reorganization is a change from the proposed single Part 58 reflected in the seven other metal and nonmetal sections which are currently in various stages of the rulemaking process. It would assure that the standards are logically related, easily identifiable and that those applicable to underground mines are separate from those applicable to surface mines. Section .6 standards would be codified in a new Subpart E—Explosives.

The Agency requests comments on the substance of the preproposal draft standards, as well as on the reorganization of the standards. In addition, the Agency is interested in any economic data or other regulatory impact information commenters may wish to submit. A copy of the preproposal draft has been mailed to persons and organizations known by MSHA to be interested. Other interested persons and organizations may obtain a copy of the draft by either oral or written request to the address provided above. The document contains the Agency's intended revisions, a comparison with existing provisions, and a summary explanation of the proposed changes.

Dated: August 13, 1984.

**David A. Zegeer,**

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 84-22058 Filed 8-17-84; 8:45 am]

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federal register

Monday
August 20, 1984

# Part IV

# Department of the Interior

## Fish and Wildlife Service

50 CFR Part 20

**Migratory Bird Hunting; Proposed Frameworks for Late Season Migratory Bird Hunting; Supplemental Proposed Rule**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 20**

## Migratory Bird Hunting; Proposed Frameworks for Late Season Migratory Bird Hunting Regulations

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Supplemental proposed rule.

**SUMMARY:** This document supplements proposed rulemakings published in the **Federal Register** on March 23, and June 13, 1984, (49 FR 11120 and 49 FR 24417) and sets forth proposed frameworks, (i.e., the outer limits for dates and times when shooting may occur, hunting areas, and the number of birds which may be taken and possessed) for late season migratory bird hunting regulations for the 1984–85 season. These seasons generally commence on or about October 1, 1984, and include most of those for waterfowl.

Except as noted, frameworks will be similar to those in effect last hunting season. The Service proposes to continue its program of stabilized duck hunting regulations in the 1984–85 hunting season as its fifth year of a 5-year cooperative study with Canada.

The Service annually prescribes migratory bird hunting regulations frameworks to the States. The effect of this proposed rule is to facilitate the selection of hunting seasons by the States and to further the establishment of the late season migratory bird hunting regulations for the 1984–85 season.

**DATES:** The comment period for these proposed late season frameworks will end on August 29, 1984. The comment period for the proposal concerning migratory bird hunting on Indian reservations will remain open until further notice.

**ADDRESS;** Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received on these proposed late season frameworks will be available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, N.W., Washington, D.C. The Service's biological opinions resulting from its consultation under Section 7 of the Endangered Species Act are available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

**SUPPLEMENTARY INFORMATION:** The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

On March 23, 1984, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (49 FR 11120) a proposal to amend 50 CFR Part 20, with comment periods ending June 21, July 16 (later extended to July 18) and August 17, 1984 (extended to August 29), 1984 respectively, for the 1984–85 hunting season frameworks proposed for Alaska, Hawaii, Puerto Rico and the Virgin Islands; other early seasons; and the late seasons. That document dealt with the establishment of hunting seasons, hours, areas and limits for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. On June 13, 1984, the Service published in the **Federal Register** (49 FR 24417) a second document consisting of a supplemental proposed rulemaking dealing with both the early and late season frameworks. On July 9, 1984, the Service published for public comment in the **Federal Register** (49 FR 28026) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early season migratory bird hunting regulations. On July 19, 1984, the Service published in the **Federal Register** (49 FR 29238) a fourth document containing final frameworks for Alaska, Puerto Rico and the Virgin Islands. On August 7, 1984, the Service published a fifth document (49 FR 31421) containing final frameworks for other early migratory bird hunting seasons from which State wildlife conservation agency officials selected early season hunting dates, hours, areas and limits for the 1984–85 season. This document is the sixth in the series and deals specifically with proposed frameworks for the 1984 late season migratory bird hunting regulations. Before September 1, 1984, the Service will publish in the **Federal Register** a seventh document consisting of a final rule amending Subpart K of 50 CFR 20 to set hunting seasons, hours, areas and limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in four States; sandhill cranes in the Central and Pacific Flyways; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and special extended falconry seasons.

These proposed regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

### Review of Comments Received at Public Hearing

Eleven statements were offered at the August 1, 1984, public hearing. Portions of some of these statements were related to matters outside the purpose of the hearing. Each statement is summarized below and relevant portions are addressed in the responses.

Mr. Gary Myers, Director of the Tennessee Wildlife Resources Agency, representing The Wildlife Society, spoke in support of actions taken by the Service and States and proposed to be continued in 1984 to reduce the harvest of black ducks; actions by agencies and organizations in the Pacific Flyway to protect declining populations of Alaska nesting geese; the proposed whistling swan hunting season in North Carolina in 1984; and the Central Flyway Council recommendation to begin planning now for management strategies and actions that may be necessary in 1985 to improve the status of mallards and pintails. He endorsed the concept of doing this in concert with Canada, the Flyway Councils, and the development of a North American Waterfowl Management Plan. Mr. Myers expressed concern about a continuing decline in Mississippi Valley Population (MVP) Canada geese despite an objective to increase the size of the population and urged the Service to take whatever actions are necessary to achieve the population objective.

Mr. James H. Phillips, publisher of *Wildfowling* newsletter, speaking on behalf of himself and his subscribers expressed concern about the decline in duck numbers and observed that there are no longer sufficient numbers of ducks for hunters in many regions. He indicated that the Service's handling of such matters as stabilized regulations, the point system, non-toxic shot,

subsistence hunting, and methods of evaluating the fall flight is inconsistent with the needs of the ducks, and suggested that the Service is practicing "duck politics" and has developed misguided priorities. He recommended that the Service should not wait until next year to restrict harvest of mallards and pintails but should begin doing something for the ducks now.

Dr. Laurence R. Jahn, representing the Wildlife Management Institute, noted that his comments supplemented his remarks at the public hearing one year ago, (48 FR 36854–36855), and submitted a copy of those remarks for the record. He then commented on the decline in numbers of certain prairie breeding ducks due to drought and low recruitment rates, and suggested that there are risks to these populations associated with continuing stabilized regulations. He recommended that the status and the proposed regulations affecting mallards, pintails, and blue-winged teal should be examined before frameworks are established, and urged that an evaluation of stabilized regulations be conducted before seasons are set next year. He stated that efforts to restrict the harvest of black ducks should be continued in 1984–85 along with special education efforts to alert citizens to the problems of black ducks and the need for harvest restrictions. He noted that despite harvest reductions in the Pacific Flyway in recent years, populations of Pacific white-fronted geese and cackling Canada geese have continued to decline, clearly implying that human activities on the Alaska breeding grounds are a major problem. He urged that proposals for further reduction in harvests of cackling Canada geese, white-fronted geese, and Pacific brant be enacted and expanded to include emperor geese. In addition, he recommended that taking of these geese and their eggs in spring and summer on their breeding grounds be curtailed immediately.

Mr. Bud Bristow, representing the Pacific Flyway Council, endorsed the proposed regulations in general but noted that the Council favored a reduction in bag limits of pintails. He urged that the Service obtain or utilize existing information on waterfowl populations in unsurveyed areas of the West to improve forecasts of fall flights. He supported the concept of stabilizing regulations for term periods and supported development of a North American Waterfowl Management Plan.

Mr. Lee Roy Rendleman, representing the Southern Illinois Quotazone Waterfowl Association, commented about the proposed regulations for Mississippi Valley Population Canada geese. He disagreed with the proposal to restrict season length in the Southern Illinois Quota Zone, and requested that the Service continue to use harvest quotas to control the size of the harvest.

Mr. John Anderson, representing the National Audubon Society, noted that although mallard and pintail populations are at their lowest levels since the early 1960's, the knowledge to be gained about the effects of season length, dates, and bag limits on future breeding populations appears to merit continuation of stabilized regulations for another year. He supported continuation of the black duck hunting restrictions implemented in 1983 in the Atlantic and Mississippi Flyways. He endorsed the proposed regulations on Canada geese, and harvest restrictions on dusky Canada geese, Pacific white-fronted geese, cackling Canada geese and Pacific brant. He noted that in view of a doubling of the population of tundra swans in the Atlantic Flyway since 1950, and the possibility that the carrying capacity of the wintering grounds may be exceeded there appears to be no biological reason to oppose the Atlantic Flyway Council proposal for a limited harvest of these birds in the Atlantic Flyway. He urged that the flyway management system should be continued and broadened, that parochial views should be submerged, and coordination and cooperation among all Canadian and U.S. wildlife agencies be strengthened.

Dr. John Grandy, representing The Humane Society of the United States, expressed dismay at the lack of advocacy by the Service in regard to prohibiting the use of lead shot to reduce lead poisoning of waterfowl. He stated that restrictions on the harvest of black ducks implemented by the Service in the 1983–84 hunting season were inadequate and again urged a closed season on black ducks. He called for an immediate end to stabilized regulations stating that the Service record is dismal and getting worse under stabilized regulations; and that the Service has a duty to protect mallards and pintails, which have declined under these regulations. He opposed swan hunting in the Atlantic Flyway on the grounds that there is no evidence to justify it.

Mr. Vernon Bevill, representing the North Carolina Wildlife Resources Commission, urged the Service to endorse the limited harvest of whistling swans in North Carolina during 1984–85. He indicated that the eastern population of swans is increasing at a rate of 1200 per year, North Carolina winters half the swans of the Atlantic Flyway, and the population should be managed at a level consistent with available habitat. He cited population densities, crop depredations, loss of aquatic food plants that would be utilized by other wildlife species, and landowner attitudes as valid reasons to initate a limited harvest of swans. He recommended a harvest slightly higher than the annual rate of increase to maintain wintering populations at current levels.

Mr. Charles H. Schroeder, representing the Central Flyway Council, expressed the support of the Council for the regulations proposed by the Service at the public hearing.

Mr. Dale E. Whitesell, representing Ducks Unlimited, Inc. (DU), noted that the responses of waterfowl to the current drought were typical and to be expected, that is, breeding effort was reduced and populations decreased. He reviewed the DU estimate of waterfowl habitat conditions in Canada and indicated these were in essential agreement with Fish and Wildlife Service-Canadian Wildlife Service estimates. He observed pintail populations were low but that the species can bounce back rapidly when water returns to the prairies. Mr. Whitesell stated that 76% of DU projects were functional in this drought year compared to natural ponds, only 36% of which held water. He indicated the continental population now was similar to the long-term average, and saw no threat to the population from a continuation of stabilized regulations. He urged the Fish and Wildlife Service and the Canadian Wildlife Service to develop an international management program and recommended that population goals be tied to habitat goals.

Dr. Jay Hair, representing the National Wildlife Federation (NWF), supported North Carolina's proposal to harvest whistling swans during the 1984–85 season, and indicated that further comments on the 1984–85 proposed hunting regulations would be submitted in writing. The remainder of Dr. Hair's testimony involved a summary of the NWF petition to the Service to take immediate action, to prohibit the use of lead shot and require the use of steel shot for waterfowl hunting or, alternatively, to close the waterfowl hunting season in a number of specific areas in the U.S. in 1984 and 1985 in order to protect bald eagles from lead poisoning. In particular, for 1984, the NWF requested that the Service either require steel shot or close to all waterfowl hunting the following areas: Coconino County, Arizona; Modoc and Siskiyou Counties, California; Madison County, Illinois; Holt County, Missouri;

and Thurston County, Washington. Copies of the NWF petition may be obtained from Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. While matters relating to lead poisoning and the designation of steel shot zones are not the subject of this rulemaking the Service notes that it is presently reviewing and analyzing the information presented in the NWF petition. The results of the review and analysis, and any action that may be taken in relation to the designation of additional steel shot zones, would then be the subject of a separate **Federal Register** publication to be prepared subsequently. As regards the alternative request of the NWF to close waterfowl hunting in the six above mentioned areas, the Service solicits public comment on such a proposal in addition to other issues set forth elsewhere in this proposed rule. For further information on this matter see below in this document under *Endangered Species Act Consideration.*

**Response to Comments at Public Hearing**

*Stabilized Regulations for Duck Hunting.*

Three speakers expressed concern about the continuation of stabilized regulations during the 1984–85 hunting season, as proposed by the Service. These concerns were considered in the light of the following circumstances.

In 1980, the Service developed an environmental assessment of stabilized hunting regulations which included safeguards to be considered in connection with population levels of the various species of ducks during the course of the program. At this time it was noted that if the combined breeding population index for 10 species of ducks in surveyed areas (mallards, gadwall, wigeon, green-winged teal, blue-winged teal, shoveler, pintial, redhead, canvasback, and scaup) fell below 30 million including 5.5 million mallards, for two consecutive years, the program would be reviewed and a determination made whether to continue or curtail it. The 1984 breeding population index for these species was 38 million including approximately 6 million mallards. These indices are above levels at which termination of the program would be considered. A purpose of the 5-year program for stabilized regulations is to better understand the relationships between regulations, harvest, and duck populations. The 1984–85 hunting season will be the fifth and final year of the current stabilized regulations program. The Service is of the view that continuation of the stabilized regulations program in the 1984–85 hunting season is within the guidelines established at the beginning of the study, does not pose an unwarranted risk to any of the duck populations involved, and would contribute substantially to evaluations of the relationships mentioned above. Therefore, it is proposed to complete this final year of the program.

The Service recognizes that there are concerns about duck populations and duck habitat conditions in the important prairie breeding grounds of southern Canada and shares those concerns. In this connection, the focus of concern is on mallard and pintail populations in these areas. For this reason, the Service intends to begin an intensive review aimed at determining what management measures should be initiated in 1985 to improve the status of these birds in these area, including harvest reductions as they may be appropriate. Review and development of management programs will be done in concert with the Flyway Councils, the Canadian Wildlife Service, and other appropriate Canadian jurisdictions.

It is expected that a management strategy of international scope for mid-continent mallards and pintails will be developed as part of a broader North American Waterfowl Management Plan to be developed jointly by U.S. and Canadian wildlife management agencies beginning this fall.

Black Ducks

The coments of the Humane Society of the United States about black duck harvest restrictions were considered in the light of the following circumstances. A variety of harvest restrictions were implemented in the 1983–84 hunting season to reduce black duck harvest in the Atlantic and Mississippi Flyways. These were accompanied by an extensive hunter information program designed to explain the black duck situation and solicit the cooperation of hunters. Harvest surveys indicate that the Atlantic Flyway harvest of black duck decreased 17% below the 1982–83 harvest and was 36% below the average harvest for the period 1980–82. This occurred in spite of a 14% increase in the overall harvest of ducks in the Atlantic Flyway. The Service and the Atlantic Flyway States are seeking a 3–5 year average reduction in harvest of 25% compared to the previous 3-year average.

Black duck harvest restrictions in the Mississippi Flyway were originally scheduled for this fall. However, the States voluntarily restricted bag limits from 2 to 1 per day throughout the Flyway last fall. In spite of this, harvest data indicate that more black ducks were harvested than in the previous (1982–83) season. Black ducks make up less than 1 percent of the total duck harvest in this Flyway. Because there are wide confidence intervals around estimates of the relatively small black duck harvest the effectiveness of the measures employed cannot be determined on the basis of one year of data.

The Service is of the view that the results of the 1983–84 hunting season restrictions represent substantial and satisfactory progress toward reducing the black duck harvest. A continuation of these restrictions is proposed for the 1984–85 hunting season. In addition, harvest restrictions on black ducks will be initiated this fall in Canada, where about one-half of the North American harvest occurs.

Geese

*Alaska-nesting Geese.* The comments of two speakers were interpreted as recommending additional restrictions on the hunting of several species of geese that nest in the Yukon-Kuskokwim Delta, especially with regard to the taking of these birds and their eggs on the breeding grounds. The Service, the Pacific Flyway Council and the individual States, including Alaska, have proposed harvest restrictions on these geese beginning in 1984. These proposals include a complete closure on the taking of cackling Canada geese and a 50 percent reduction in the harvest of Pacific white-fronted geese and brant. Additionally, the Association of Village Council Presidents (AVCP), working in cooperation with the above agencies on behalf of the residents of the Yukon-Kuskokwim Delta have agreed to follow the same guidelines in curtailing the harvest of these geese in the Delta where they traditionally contribute an important source of food in spring and early summer. This curtailment was initiated in the spring of 1984. The Service is of the view that the development and implementation of this agreement represents an important step toward conservation of these geese. While it is too early to determine the degree of success, it appears to be a most promising approach and merits continuation until results can be measured.

*Mississippi Valley Population Canada geese.* Two speakers commented on the status and proposed regulations for hunting of these geese. The MVP has been declining since 1977 due to a series of poor production years and excessive harvest, and presently is estimated to number about 275 thousand

birds. Efforts to reduce harvest in recent years have been only partially successful. The Mississippi Flyway Council MVP Canada Goose Committee has adopted an objective of increasing the population size to 500 thousand birds by 1988 and urged the Service to take steps necessary to achieve it. The Service supports this objective. All parties acknowledge that achieving the objective will require substantial reductions in harvest. After consulting with representatives of the affected States the Service has proposed seasons not to exceed 25 days and a 2-bird daily bag limit in areas where MVP geese comprise a major portion of the Canada goose population, and not to exceed 20 days with a 1-bird daily bag limit in those areas where further harvest controls are necessary. The Service believes the proposed regulations, including restrictions in season length in quota zones, are necessary to reduce the harvest of MVP geese in 1984.

*Whistling swans.* Five speakers addressed the Service proposal to permit a limited permit hunt of whistling swans in North Carolina to be conducted experimentally beginning in the 1984–85 hunting season; three supported the proposal, one opposed, and one was neutral. Population surveys indicate the average population of whistling swans wintering in the Atlantic Flyway was 75,000 during the period 1974–84. The 1984 population index was 81,000 birds. Long term records indicate the EP swan population is increasing at a rate of 2 to 3 percent annually. In North Carolina and some other States there are increasing complaints from agricultural interests about damage to crops and fields by swans. Simlar but less numerous complaints have been voiced about damage to shellfish beds. Also, concerns have been expressed that continually increasing swan numbers are locally damaging to aquatic food resources utilized by other species of waterfowl. North Carolina has requested additional flexibility in managing swans in that State, particularly in regard to hunting, so that they can begin addressing these problems and, at the same time, provide biologically sound recreational opportunities to those who wish to hunt these birds. Available information indicates that there is no biological basis for refusing this request. The Service proposes an experimental hunting season on swans in North Carolina concurrent with the snow goose season. Limited recreational hunting of whistling swans has been permitted in the Pacific Flyway portions of Utah, Nevada and Montana since 1962 with no visible adverse impacts. Most of the birds in these States are part of the western population of whistling swans while those in North Carolina are part of the eastern population. At present, Montana harvests a few birds annually from the eastern population but otherwise few birds from this population appear to be taken by hunters. The proposed hunt in North Carolina is not expected to have an adverse impact on the population.

*Written Comments Received*

In the **Federal Register** dated June 13, 1984 (49 FR 24417), the Service reviewed comments on proposed late season frameworks received as of May 1, 1984, from 333 correspondents. Since then, 597 additional comments have been received. They are discussed here by regulatory topics arranged in the same order as in the March 23, 1984 **Federal Register** (49 FR 11120).

**Comments on Migratory Bird Hunting on Indian Reservations**

In the March 23, 1984, **Federal Register** the Service proposed to modify its zoning policy to accommodate, to the extent possible, migratory bird hunting by Indians on Indian Reservations during seasons that differ from those established elsewhere in the States where the reservations are located. Through August 7, 1984, comments were received form 17 States, 16 of which opposed the proposal because they believe it would interfere with their migratory bird management programs and regulatory processes. One State supported the proposal provided adequate measures were developed to safeguard the resource. Comments were also received from 12 Indian tribal representatives, 11 of which opposed the proposal chiefly because it did not give adequate recognition to their reserved hunting rights. One tribal representative gave qualified support to the proposal.

The Service is continuing to explore this matter with interested parties and anticipates additional comment and information will be forthcoming. Consequently, further action on this matter is deferred, and the comment period for the proposal will remain open until further notice.

1. *Shooting Hours.* In a letter received August 1, 1984, Defenders of Wildlife reiterated their long standing objection to "pre-dawn" shooting hours and recommended that such shooting hours be disallowed because of the inability of hunters to identify birds passing overhead in poor light conditions.

*Response.* Shooting hours for migratory bird hunting have been addressed by the Service in the **Federal Register** on a number of previous occasions (e.g., 42 FR 13313–13315, March 10, 1977 and more recently in 49 FR 28029 on July 9, 1984. Also, this matter was explored in detail in an environmental assessment prepared and made available to the public in 1977. Based on an evaluation of available information the Service believes that shooting hours proposed for migratory bird hunting (i.e., one half hour before sunrise to sunset) are appropriate and sees no reason to propose any changes at this time.

2. *Framework dates for ducks and geese in the continental United States.* Alabama (letter of April 27, 1984) reiterated their request for extending the duck season framework closing date in the State from January 20 to January 31. It was stated that duck hunters in Alabama are being deprived of a fair share of the waterfowl harvest in the Mississippi Flyway under present regulations and the additional harvest under the requested extension would have no significant effect on Flyway duck populations.

*Response.* This proposal from Alabama, and similar proposals from Georgia and South Carolina were discussed in the **Federal Register** on March 23, 1984 (49 FR 11127) and June 13, 1984 (49 FR 24418). Also discussed in the June 13, 1984, **Federal Register** (49 FR 24418) was (1) a recommendation from the Lower Region Regulations Committee of the Mississippi Flyway Council that a January 31 closing date for duck hunting be extended to all States of the Lower Region (Louisiana, Mississippi, Alabama, Arkansas, Tennessee and Kentucky) unless unacceptable impacts are documented by the ongoing study of an extended framework in Mississippi; (2) a recommendation from the same Committee for a similar extension of framework dates for goose hunting; (3) proposals from Michigan, Indiana and Ohio for special late hunting seasons (extending to January 31) for taking scaup, goldeneyes, buffleheads, old squaws, scoters, eiders, and mergansers; (4) requests from several hunters to extend the closing date of the goose season from January 20 to January 31 and increase season length from 70 to 90 days on the west side of Chesapeake Bay in Maryland; (5) a proposal from the Central Flyway Council to extend the framework for snow goose hunting from the Sunday nearest January 20 to the Sunday nearest February 15 throughout the Flyway except in New Mexico, where the extension would be to February 28; and (6) a proposal from a hunter in Utah that the State be

permitted to begin hunting before October 1.

In discussing these proposals in the June 13, 1984, **Federal Register** the Service concurred with the Central Flyway proposal regarding framework dates for hunting snow geese and the new dates have been proposed for implementation of 1984. Also, it was noted that consistent with the recommendation of the Lower Region Regulations Committee of the Mississippi Flyway Council decisions about extended framework dates for duck hunting would take into consideration the results from the ongoing study in Mississippi. Action was deferred on the remaining proposals pending additional information, consultation, and recommendations from the respective Flyway Councils and/or States. The following actions are now proposed on these matters:

The Service has previously considered Alabama's request for a duck hunting season extending to January 31. During the 1983 regulations process such an extension was proposed by the Service but was strongly opposed by representatives of the four Flyway Councils. The Councils were concerned that such a change would compromise the study of stabilized regulations currently underway as a cooperative project of the Service, the Flyway Councils, the Canadian Wildlife Service and Provincial wildlife agencies. Also, they felt that action on the request should be deferred pending the outcome of a study currently underway in Mississippi to evaluate the effect of a later season on suck populations and harvests there. Both studies are scheduled to continue through the 1984–85 hunting season. Further consideration of Alabama's request, and the similar requests from Georgia and South Carolina during the current regulations process, indicates that these concerns persist and that there are continuing strong objections to modifying framework dates for duck hunting at this time. After further review of the requests and the arguments for and against them, the Service has concluded that it would be undesirable to make such changes now. Accordingly, it is proposed to withhold action pending completion of the studies mentioned above and a determination of the appropriateness of extended late hunting seaons for ducks.

In the June 13, 1984, **Federal Register** (49 FR 24419) it was noted that an extension of the closing date for goose hunting in States of the Lower Region of the Mississippi Flyway would primarily affect the hunting of MVP Canada geese and that action on this matter would be deferred pending recommendations from the MVP Committee of the Mississippi Flyway Council. Recommendations from the MVP Committee indicate that a January 31 closing date should be continued in those States where it was established for the 1983–84 hunting season in connection with MVP geese but not for other States at this time. The Service's proposals set forth in this document are in line with the MVP Committee's recommendations.

The Service previously noted (49 FR 24419) that requests for special late hunting seasons for scaup and other diving ducks in Michigan, Ohio and Indiana appears to run counter to a recommendation by the Upper Region Regulations Committee of the Mississippi Flyway to, in essence, defer action on such seasons pending further evaluation. This recommendation was reconfirmed at the July 1984 meeting of the Mississippi Flyway Council. Accordingly, the Service proposes not to implement these seasons at this time.

The Service has received no further information or proposals from the State of Maryland or the Atlantic Flyway Council regarding an extended framework and increase in season length for geese on the west side of the Chesapeake Bay in Maryland. As noted in the June 13, 1984, **Federal Register** (49 FR 24419) this is judged to be inconsistent with efforts currently underway by the Atlantic Flyway Council and the Service to determine how best to manage Atlantic Flyway Canada goose hunting particularly in regard to segments of the population that migrate through Maryland to more southerly wintering areas. Cooperative studies are presently underway to evaluate this situation. Accordingly, the Service proposes no action on these matters pending completion of the studies.

The Service has received no further information or proposals from the State of Utah or the Pacific Flyway Council regarding an earlier opening date for the duck season in Utah. Pending completion and evaluation of experimental early duck seasons presently being tested in Florida, Iowa, Kentucky and Tennessee and the ongoing study of stabilized regulations, the Service proposes no action on this matter.

3. *Black ducks.* In a letter received August 1, 1984, Defenders of the Wildlife objected to New Jersey's request to experimentally lower the point value on hen mallards from 75 points to 25 as a means of removing hunting pressure from black ducks.

*Response.* The Service does not propose to implement such a change in 1984. As noted in the June 13, 1984, **Federal Register** (49 FR 24419) the Service is of the view that changes in mallard harvest regulations for the Atlantic Flyway should be deferred until such time as a mallard management plan, including guidelines for harvest strategies has been adopted for the Flyway.

4. *Wood ducks.* In a letter of April 27, 1984, Alabama requested that the point value for wood ducks in that State be lowered from the present level of 70 points in order to provide additional harvest opportunity on wood ducks produced within the State. They stated that Alabama is a heavy producer of wood ducks and hunters there could enjoy the harvest of additional ducks without jeopardizing the wood duck population.

*Response.* The Sevice has previously considered methods of providing additional wood duck harvest opportunities for southern States in consultation with the Mississippi and Atlantic Flyway Councils. It was concluded that the approach suggested by Alabama, which would increase the bag limit on wood ducks throughout the regular duck hunting season, was unsatisfactory because of the potential for adverse impacts on northern nesting wood ducks. It is generally felt that there is already sufficient hunting pressure on northern wood ducks and it would be undesirable to increase it. In an effort to avoid adverse impacts on northern nesting birds while allowing additional harvest opportunities for southern nesting birds, regulations were established several years ago that permit a large bag limit prior to October 15 in southern States, including Alabama. It was felt that few northern ducks would be present in southern States at the time. Few southern States have taken advantage of this provision apparently because most hunters prefer that the full allocations of hunting days be taken later in the season.

The harvest of wood ducks has increased substantially in recent years. For the Atlantic and Mississippi Flyways combined, this species now ranks second in the bag, being exceeded only by the mallard. Until information is developed to demonstrate otherwise, the Service believes it undesirable to increase hunting pressure on wood ducks in southern States at times when substantial numbers of northern nesting birds are present. Accordingly, the

Service proposes to take no action on this request at this time.

12. *Canvasbacks.* The State of Maryland by letter dated April 27, 1984, and in a subsequent telephone discussion requested that the boundary for the experimental canvasback area on the Patuxent River in Maryland be changed from the first upstream bridge, which is located almost exactly at the mouth of the river, to the second upstream bridge. They noted that this would help resolve questions about the definition of *upstream* and would provide an opportunity for hunters in a traditional canvasback area along the Patuxent River to participate in the experimental season. State officials estimated the change in boundaries would increase the canvasback harvest in Maryland during the experimental season by less than 10%—all other factors being equal. The Maryland request was reviewed and endorsed by the Atlantic Flyway Council.

*Response.* The Service accepts the change requested by Maryland, as endorsed by the Council and has incorporated it in the proposed late season framework for migratory birds.

13. *Zoning.* In the June 13, 1984, **Federal Register** (at 49 FR 24421) the Service proposed the following for Louisiana: apply Central Flyway duck season length to the West Zone, Mississippi Flyway duck season length in the East Zone, and Mississippi Flyway bag limits in both zones. To avoid interference with the evaluation of stabilized duck hunting regulations currently underway in the United States, the Service's proposal would not be implemented until the 1985–86 hunting season.

In a report submitted on July 31, 1984, the Upper Region Regulations Committee of the Mississippi Flyway Council notified the Service that at their July 28, 1984 meeting, they endorsed zoning proposals for three waterfowl zones in each of the following States: Indiana, Ohio and Michigan. The Committee also endorsed minor waterfowl boundary changes requested by Illinois.

On July 31, 1984, representatives of the Atlantic Flyway Council informally notified the Service of the Council's recommendation the New Hampshire waterfowl zones should be given operational status. They also indicated support of a request from New Jersey to make their waterfowl zones operational provided, however, that this is contingent on the outcome of a Service review of data acquired during the experimental phase and the specific criteria for determining whether these zones should become operational.

*Response.* Four comments have been received on the Louisiana proposal: two in support and two in opposition. Since further comments on this proposal are expected, the Service will consider comments received through the end of the comment period on this proposed rulemaking in determining final action on the proposal.

In the June 13, 1984, **Federal Register** (49 FR 24421) the Service concurred with the zoning proposals submitted by Indiana and Ohio, and deferred action on Illinois' request for a waterfowl zone boundary change pending receipt of additional information. The additional information received indicates the change is minor and of little consequence. The proposals set forth in this document reflect the Service's endorsement of the zoning requests for Indiana, Ohio, Michigan and Illinois.

Service review of information from the New Hampshire zoning study indicates no major changes in zoning. It is, therefore, proposed that New Hampshire's waterfowl zones will become operational beginning in 1984 in accordance with the Atlantic Flyway Council recommendation. In regard to the New Jersey zones, the Service notes the study was extended one year through the 1983–84 season in order to better understand the relationship, if any, of the northern zone to a substantial increase in the harvest of wood ducks. This matter is still under review and the Service believes that additional data are needed before a determination can be made about the desirability of establishing operational zones in New Jersey. Therefore, the Service proposes to continue the New Jersey zones as experimental during the 1984–85 season.

14. *Goose and Brant Seasons.* By letter dated July 13, 1984, Wisconsin requested an extension of the hunting season in the Rock Prairie Zone (described in State regulations) through December 9, 1984, in order to harvest additional giant Canada geese; and indicated that in order to improve harvest management of MVP Canada geese in the eastern portion of the Horicon Zone they planned to form a new zone, termed the Theresa Zone, and assign an 800 bird harvest to be taken from the harvest quota assigned to the tag zone (Horicon, Central and Theresa). They requested continuation of a 15,000 bird tag zone harvest objective for MVP Canada geese in the Horicon, Central and Theresa Zones.

The Mississippi Flyway Council's MVP Committee recommended (1) a reduction of at least fifty percent in the harvest of MVP geese in the Mississippi Flyway in 1984 as compared to the 1983–84 Fish and Wildlife Service harvest estimate; (2) a flyway-wide MVP Canada goose season not to exceed 25 days with a one or two daily bag limit depending on existence of effective mechanisms for monitoring harvest and closing the season when harvest objectives are met, or a season not to exceed 20 days with a one bird daily bag limit in areas not having such mechanisms; and (3) the Fish and Wildlife Service to work with each of the MVP States to develop regulations appropriate for achieving the harvest objective.

Both Upper and Lower Region Regulations Committees of the Mississippi Flyway Council recommended regulatory changes for MVP Canada geese generally in line with the harvest objectives and provisions noted above.

In a letter received August 1, 1984, Defenders of Wildlife supported recommendations to close the season on cackling Canada geese in the Pacific Flyway and reduce the harvest of Pacific white-fronted geese.

*Response.* The Service concurs with the recommendations of the MVP Canada Goose Committee, Upper and Lower Region Regulations Committees, and the State of Wisconsin regarding harvest objectives and regulations for MVP Canada geese for the 1984–85 hunting season. The proposals set forth in this document are believed to be in line with these recommendations and are aimed at reducing the harvest of MVP Canada geese in the 1984–85 hunting season by 50%. The Service also concurs with Wisconsin's recommendation for increased harvest of local populations of giant Canada geese in the Rock Prairie Zone and with the recommendations by Defenders of Wildlife regarding cackling Canada geese and Pacific white-fronted geese. Regulatory changes relating to these items are described later in this proposed rulemaking.

15. *Whistling swans.* In the March 23, 1984, **Federal Register** (49 FR 11130) the Service provided notice of North Carolina's intent to propose an experimental hunting season for whistling swans. On June 13, 1984, in 49 FR 24421 the Service described the proposal subsequently received from North Carolina. The proposal was endorsed by the Atlantic Flyway Council after review at their July 1984 meeting. Comments received at the August 1, 1984, public hearing on proposed waterfowl hunting regulations have been discussed above. Through August 7, 1984, the Service received written comments from 770 individuals

and 22 organizations opposed to the hunting of swans in the Atlantic Flyway and from 94 individuals and 6 organizations in support of a hunting season for swans.

The principal concerns expressed by those opposed to swan hunting are that the birds are too special to the public to warrant hunting, that if hunting is permitted many will be crippled and lost, and that any agricultural damage caused by swans could be alleviated by means other than hunting. Those favoring a season believe that swans in North Carolina are causing agricultural damage, are competing with other wildlife for food resources, and are sufficiently numerous to support hunting.

In a July 23, 1984, letter, the North Carolina Wildlife Resources Commission further addressed the matter of swan management and hunting in North Carolina. They noted the continuing interest of the State and the Atlantic Flyway Council in managing swans on a biological basis, the continuing increase in numbers of EP swans, the conflicts of swans with agriculture and shell fisheries, and the belief that swans are adversely impacting aquatic food resources. They reiterated the views of both the State and the Council that a necessary first step in addressing the problems identified above was to stabilize the swan population and that this likely could only be done by regulated hunting. Therefore, it is both desirable and necessary to begin to use hunting as a management tool.

*Response.* This matter is discussed above in the review of comments received at the public hearing on proposed waterfowl hunting regulations held on August 1, 1984. As noted there, and described later in this proposed rulemaking, the Service proposes to permit North Carolina to initiate a limited experimental swan hunt beginning in the 1984–85 hunting season. Under this proposal the season would run concurrently with the snow goose season, the State would not issue more than 1,000 permits authorizing each permittee to take 1 whistling swan per season, and would be required to obtain population, harvest, and hunter participation and success data.

**Public Comment Invited**

Based on the results of recently completed migratory game bird studies and having due consideration for any data or views submitted by interested parties, the amendments resulting from these supplemental proposals will specify open seasons, shooting hours, areas, and bag and possession limits for waterfowl, coots and gallinules; and snipe in the Pacific Flyway.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the unavailability before late July of specific, reliable data on this year's status of waterfowl. Therefore, the Service believes that to allow a comment period past August 29, 1984, is contrary to the public interests.

**Comment Procedure**

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 536 in the Matomic Building, 1717 H Street, NW., Washington, D.C. 20240.

All relevant comments received on the late season proposals no later than August 29, 1984, will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

**Nontoxic Shot Regulations**

On August 13, 1981, the Service published in the **Federal Register** (46 FR 40879) final rules describing nontoxic shot zones for waterfowl hunting. When eaten by waterfowl, spent lead pellets can have a toxic effect. Nontoxic shot zones reduce availability of lead pellets in selected waterfowl feeding areas.

Amendments to these regulations were published in the **Federal Register** (47 FR 32546; July 28, 1982 and 48 FR 26457; June 8, 1983). These amendments relate to changes in Indiana, Maine, Massachusetts, Nebraska, Michigan, Illinois, Texas and Florida.

Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

**NEPA Consideration**

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 24241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of the environmental assessments are available from the Service.

**Endangered Species Act Consideration**

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and]" * * * by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

Consequently, the Service initated section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On July 5, 1984, the Chief, Office of Endangered Species, gave a biological opinion that the proposed action was not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats. On August 1, 1984, the National Wildlife Federation (NWF) petitioned the U.S. Fish and Wildlife Service to address by September 1, 1984 the problem of secondary lead poisoning in bald eagles as a result of the eagles feeding on dead or crippled waterfowl, in certain identified areas. The Service's Office of Endangered Species was subsequently requested by the Director to reinitiate Section 7 consultation and provide a biological opinion regarding the secondary lead poisoning problem, as

identified by NWF, by August 15, 1984. Based on the information developed in the reinitiated Section 7 consultation, the Service will make a determination about what actions, if any, should be taken during 1984–85 to provide additional protection to bald eagles in the waterfowl hunting areas specifically identified by the NWF. The Service's examination and analysis of the NWF petition and any actions that may follow such examination would be described in a subsequent **Federal Register**.

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for public inspection in the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

**Regulatory Flexibility Act and Executive Order 12291**

In the **Federal Register** dated March 23, 1984 (at 49 FR 11124), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

**Memorandum of Law**

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated July 19, 1984 (at 49 FR 29239).

**Authorship**

The primary author of this proposed rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

**List of Subjects in 50 CFR Part 20**

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1984–85 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1981 (40 Stat. 755; 16 U.S.C. 704 et seq.), as amended.

**Proposed Regulations Frameworks for 1984–85 Late Hunting Seasons on Certain Migratory Game Birds**

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl, coots and gallinules; sandhill cranes in Arizona; and common snipe in the Pacific Flyway. Frameworks are summarized below. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions.

*General*

Split Season: States in all Flyways may split their season for ducks, geese or brant into two segments. States in the Atlantic and Central Flyways may, in lieu of zoning, split their season for ducks or geese into three segments. Exceptions are noted in appropriate sections.

Shooting Hours: From one-half hour before sunrise to sunset daily, for all species and seasons, including falconry seasons.

Extra Blue-wingled Teal: States in the Mississippi and Central Flyways selecting neither a teal or early duck season in September nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

Extra teal: States in the Atlantic Flyway (except Florida) not selecting the point system may select an extra teal limit of no more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession for 9 consecutive days during the regular duck season.

Special Scaup-only Season: States in the Atlantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1984, and January 31, 1985, all dates inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon by the State and the Service prior to August 31, 1984.

4. These areas must be described and delineated in State hunting regulations.

*OR*

Extra Scaup: As an alternative, States in the Atlantic, Mississippi and Central Flyways, except those selecting the point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Point System: Selection of the point system for any State entirely within a flyway must be on a statewide basis, *except* if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option, and Massachusetts, Connecticut and Pennsylvania may not select the point system pending completion of zoning studies.

Deferred Season Selections: States that did not select rail, woodcock, snipe, sandhill crane, gallinule and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

*Atlantic Flyway*

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusets, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

Ducks, Coots and Mergansers

Outside Dates: Between October 1, 1984, and January 20, 1985.

Hunting Season: 50 days.

Daily Bag and Possession Limits (including restrictions on black ducks): (a) Basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks; or (b) basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks. In addition, the following restrictions of black duck harvest are listed by State.

*Connecticut*: During the first segment of the split season in both the coastal and inland zones, no black ducks are

permitted; during the second segment of the season, 1 black duck is permitted per day and 2 in possession.

Delaware: No hunting of black ducks is permitted on the following dates of the duck hunting season: October 1–3 and October 31–November 5. On other days of the duck hunting season 1 black duck in the daily bag and 2 in possession is permitted.

*Maine*: North Zone: 1 black duck is permitted per day and 2 in possession. South Zone: during the first segment of a split season, no black ducks are permitted; during the second segment, 2 black ducks are permitted per day and 4 in possession.

*Maryland:* Inland Zone: The season is closed on black ducks during the first segment of a split season (no less than 3 hunting days); during the remander of the season the black duck will have a point value of 100. Coastal Zone: The season is closed on black ducks during the first 6 days of the duck season; during the remainder of the season the black duck will have a point value of 100.

*Massachusetts:* Western Zone: 1 black duck is permitted per day and 2 in possession, and the season will open no earlier than October 14. Central Zone: 1 black duck is permitted per day and 2 in possession, and the season opening will coincide with the Coastal Zone opening and the pheasant hunting season. Coastal Zone: The season opening will coincide with the pleasant hunting season. During periods when black ducks may be hunted, 2 black ducks are permitted per day and 4 in possession. No hunting of black ducks is permitted during a 10-day period in the second segment of a split season, and no hunging of black ducks is permitted after January 1 in this zone.

*New Hampshire:* Inland Zone: 1 black duck is permitted per day and 2 in possession. Coastal Zone: during the first part of a split season no hunting of black ducks is permitted; during the second part of the split season 2 black ducks are permitted per day and 4 in possession.

*New Jersey:* For black duck restrictions see point system option for Atlantic Flyway.

*New York:* Long Island Zone: 1 black duck is permitted per day and 2 in possession throughout the season. Western Zone: during the first part of a split season, 1 black duck is permitted per day and 2 in possession; during the second part of the split season no hunting of black ducks is permitted. Northeastern Zone: during the first part of a split season, 1 black duck is permitted per day and 2 in possession; during the second part of the split season no hunting of black ducks is permitted. Southern Zone: during the first 25 days of the duck hunting season 1 black duck is permitted per day and 2 in possession and during the last 25 days of the duck hunting season no hunting of black ducks is permitted.

*North Carolina:* The season for black ducks is closed during that part of the duck season prior to December 17; thereafter 1 black duck per day and 2 in possession is permitted.

*Pennsylvania:* Lake Erie Zone: 1 black duck is permitted per day and 2 in possesion during the October 22 to December 3 portion of the duck season; on all other duck hunting days no black ducks are permitted. Northwest Zone: 1 black duck is permitted in the daily bag and 2 in possesion during the October 24 to December 3 portion of the duck season; on all other duck hunting days no black ducks are permitted. North Zone: 1 black duck will be permitted per day and 2 in possession during the October 20 to November 19 portion of the duck season; on all other duck hunting days no black ducks are permitted. South Zone: 1 black duck will be permitted per day and 2 in possession during the November 7 to December 3 portion of the duck season; on all other duck hunting days no black ducks are permitted.

*Rhode Island:* The daily bag limit of black ducks is 1 and the possession limit is 2.

*South Carolina:* During the November 23 to November 26 portion of the duck season no black ducks are permitted in the daily bag. On all other duck hunting days the daily bag limit of black ducks is 1 and the possession limit is 2; however, there will be no open season on black ducks in Georgetown, Charleston, Colleton, and Beaufort Counties.

*Vermont:* No black ducks are permitted in the daily bag during the first 5–7 days of the hunting season; 1 black duck per day and 2 in possession is permitted during the remainder of the duck hunting season.

*Virginia:* During the period November 23-December 4 (including no less than 10 duck hunting days), no black ducks are permitted in the daily bag.

*West Virginia:* The daily bag limit of black ducks is 1 and the possession limit is 2.

*Canvasbacks and Redheads:* Except in closed areas, the limit canvasbacks is 1 daily and 1 in possession. The limit of redheads throughout the flyway is 2 daily, except that in areas open to canvasback harvest the daily bag limit is 2 redheads, or 1 redhead and 1 canvasback. The possession limit of redheads is twice the daily bag limit under conventional regulations. The possession limit of canvasbacks is equal to the daily bag limit. Under the point system, canvasbacks (except in closed areas) count 100 points each and redheads flywaywide count 70 points each.

Areas closed to canvasback hunting are:

*New York*—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

*New Jersey*—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

*Maryland, Virginia* and *North Carolina*—Those portions of each State lying east of U.S. Highway 1.

In addition, areas or portions of areas as specified below, otherwise closed to taking of canvasbacks, may be opened to hunting of canvasbacks during an experimental season. The experimental season must occur during the last 11 day sor last 6 days of the regular duck season, the daily bag under conventional regulations may include no more than 4 canvasbacks, not more than 1 of which may be a female. Under the point system male canvasbacks are 25 points and femals 100 points. Possession limits are twice daily bag limits. The areas eligible for this experimental season are:

*New York*—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls, and all waters of Lake Cayuga.

*New Jersey*—(1) East of the Garden State Parkway from Route 440, south to Route 36 (Raritan and Sandy Hook Bays, Navesink and Shrewsbury Rivers); (2) east of the Garden State Parkway from Route 88 south to Route 72 (Barnegat, Silver and Manahawkin Bays, Metedeconk and Toms Rivers).

*Maryland*—Starting at the Virginia-Maryland line (U.S. Route 301 bridge) the waters of Chesapeake Bay and it's tributaries enclosed in the area bounded by: U.S. Route 301 north to MD Route 5, then east on MD Route 5 and continuing to the junction of MD Route 231, then east on MD Route 231 to MD Route 2 and 4; north to the intersection of MD Route 2; then north on MD Route 2 to U.S. Route 50 and 301 east, then north on MD Route 2 to I–695; then east and north on I–695 to U.S. Route 40, then north on U.S. Route 40 to MD Route 213, then south on MD Route 213 to U.S. Route 50, then south on U.S. Route 50 to U.S. Route 13, and south on U.S. Route 13 to the Maryland-Virginia line.

*Virginia*—Starting at the Virginia-Maryland line (301 bridge) those lands and waters enclosed in the area

bounded by: U.S. Highway 301 south to Route 207 and continuing to the junction of U.S. Route 1, south on Route 1 to Route 460, then southeast on 460 to Route 13, then east and north on Route 13 to the Maryland line, then westward on the Maryland-Virginia line to Route 301.

*North Carolina*—that portion of Pamlico Sound and it's tributaries designated as coastal fishing waters within two miles of the mainland, extending from Long Shoal Point on north side of Long Shoal River to that point of marsh near Whortonville on the north side of Broad Creek known as Piney Point and upstream in Pamilco River to the Aurora-Belhaven ferry crossing.

The remaining portions of areas in each of the five participating States presently closed to the taking of canvasback will remain closed.

*Early Wood Duck Season Option:* Virginia, North Carolina, South Carolina and Georgia may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway shall apply to wood ducks. Under the point system, wood ducks shall be 25 points. For other ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the extra teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits of wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

*Restrictions on Wood Ducks:* Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively.

*Restriction on Mottled Ducks:* The season is closed to taking of mottled ducks in South Carolina.

*Merganser Limits:* The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

*Coot Limits:* The daily bag and possession limits of coots are 15 and 30, respectively.

*Lake Champlain Area, New York Follows Vermont:* The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

*Special Scaup and Goldeneye Season:* In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate, and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

*Zoning:*

*Long Island:* New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

*Upstate New York:* Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits (see Daily Bag and Possession Limits) is applicable to the zones in the Upstate areas within the Flyway framework; only conventional regulations may be selected. Each zone will be permitted the number of days offered under options (a) or (b). In addition, a 2-segment split season may be selected in each zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus options shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

*New York Zone Definitions:* The zones are defined as follows:

The *West Zone* is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The *North* and *South Zones* are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton, then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

*Connecticut* may be divided into two zones as follows:

a. North Zone—That portion of State north of Interstate 95.

b. South Zone—That portion of State south of Interstate 95.

*Maine* may be divided into two zones as follows:

a. North Zone—Game Management Zones 1 through 5.

b. South Zone—Game Management Zones 6 through 8.

*New Hampshire*

Coastal Zone—That portion of the State east of a boundary formed by State Highway 4 beginning at the Maine-New Hampshire line in Rollinsford west of the city of Dover, south to the intersection of State Highway 108, south along State Highway 108 through Madbury, Durham, and Newmarket to the junction of State Highway 85 in Newfields, south to State Highway 101 in Exeter, east to State Highway 51 (Exeter-Hampton Expressway), east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south along Interstate 95 to the Massachusetts line.

Inland Zone—That portion of the State north and west of the above boundary.

*West Virginia* may be divided into two zones as follows:

a. Allegheny Mountain Upland Zone—The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50; follows U.S. Route 50 to the intersection with State Route 93; follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg; follows State Route 28 south to Minnehaha Springs; then follows State Route 39 west to U.S. Route 219; and follows U.S. 219 south to the intersection of Interstate 64. The southern boundary follows I-64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19.

The western boundary follows Route 19 north to the intersection of I-79, and follows I-79 north to the intersection of U.S. Route 48. The northern boundary follows U.S. Route 48 east to the Maryland State line and the State line to the point of beginning.

b. Remainder of the State—That portion outside the above boundaries.

*Maryland, Massachusetts, New Jersey* and *Pennsylvania*, may continue zoning experiments now in progress as shown in the sections that follow: *Maryland* may be divided into two zones, *Massachusetts* and *New Jersey* may be divided into three zones, and *Pennsylvania* into four zones all on the experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits (see Daily Bag and Possession Limits) is applicable to the zones within the Flyway framework. Only conventional regulations may be selected in Massachusetts, Connecticut, West Virginia and Pennsylvania. New Jersey and Maryland must select the point system. Each zone will be permitted the full number of days offered under options (a) or (b). In addition, a two-segment split season without penalty may be selected. The basic daily bag limit of ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options, and the 16-day special scaup season shall be allowed.

Zone Definitions:

*Maryland*

Inland Zone—that portion of the State north and west of U.S. Route 1 from its junction with the Maryland-Pennsylvania border south to its junction with I-95 north of Washington, D.C. and east and south along I-95 to the Maryland-Virginia border.

Coastal Zone—that portion of the State south and east of the above described highway boundaries.

*Massachusetts*

Western Zone—That portion of the State west of a line extending from the Vermont line at Interstate 91, south on Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

Central Zone—That portion of the State east of the Western Zone and west of a line extending from the New Hampshire line at Interstate 95 south to Route 1, south on Route 1 to I-93, south on I-93 to Route 3, south on Route 3 to Route 6, west on Route 6 to Route 28, west on Route 28 to I-195, west on I-195 to the Rhode Island line. *EXCEPT* the waters, and the lands 150 yards along the high-water mark, of the Assonit River to the Route 24 bridge, and the Taunton River to the Center St.-Elm St. bridge shall be in the coastal zone.

Coastal Zone—That portion of the State east and south of the Central Zone.

*New Jersey*

Coastal Zone—That portion of New Jersey seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May City and continuing to the Delaware boundary in Delaware Bay.

North Zone—That portion of New Jersey west of the Coastal Zone and north of a boundary formed by Route 70 beginning at the Garden State Parkway west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River.

South Zone—That portion of New Jersey not within the North Zone or the Coastal Zone.

*Pennsylvania*

Lake Erie Zone—The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 years inland, but including all of Presque Isle Peninsula.

North Zone—That portion of the State north of I-80 from the New Jersey State line west to the junction of State Route 147, then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I-80, then west on I-80 to its junction with the Allegheny River, and then north along but not including the Allegheny River to the New York border.

Northwest Zone—That portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by and including the Allegheny River, on the south by Interstate Highway I-80, and on the west by the Ohio line.

South Zone—The remaining portion of the State.

Point System Option for all States in the Atlantic Flyway: As an alternative to conventional bag limits for ducks, a 50-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: in Florida only, the fulvous tree duck counts 100 points each; in all States the canvasback counts 100 points each (except in closed areas or during the special experimental season); the female mallard, black duck (except as noted below), mottled duck (except South Carolina), wood duck (except in Virginia, North Carolina, South Carolina and Georgia during the early wood duck season option), redhead and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, pintail, gadwall, wigeon, shoveler, scaup, sea ducks and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina and Georgia, and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Special point system restrictions will be in effect for taking black ducks in Maryland and New Jersey. Black ducks will have a point value of 100 in the Southern and Coastal Zones of New Jersey. In Maryland, during the period when black ducks are permitted in the daily bag, the black duck will have a point value of 100.

Sea Ducks: In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the sea duck season falling outside the point-system season, sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Coot Limits: The daily bag and possession limits of coots are 15 and 30, respectively.

Canada Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1984, and January 20, 1985, Maine, New Hampshire, Vermont, Massachusetts, Pennsylvania, West Virginia, Maryland and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons for Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. In New York (including Long Island), Rhode Island, Connecticut, New Jersey, Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of

Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on I-81 to Route 443, east on 443 to Leighton, then east via 208 to Stroudsburg, then east on I-80 to the New Jersey line, the Canada goose season length may be 90 days with the closing framework date extended to January 31, 1985. In addition, that portion of the Susquehanna River from Harrisburg north to the confluence of the west and north branches at Northumberland, including a 25-yard zone of land adjacent to the waters of the river, is included in the 90-day zone. The daily bag limit within this area (except New York, Rhode Island, and Connecticut) will be 4 birds with a possession limit of 8 birds. The daily bag and possession limits in New York, Rhode Island, and Connecticut will be 3 and 6, respectively. Those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select a 50-day season for Canada geese within the October 1, 1984, to January 20, 1985, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. North Carolina and South Carolina may select a 43-day season for Canada geese within a December 20, 1984, to January 31, 1985, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively. In South Carolina the season on Canada geese is closed in the counties of Abbeville, Allendale, Anderson, Bamberg, Barnwell, Beauford, Cherokee, Chester, Colleton, Edgefield, Fairfield, Greenwood, Hampton, Kershaw, Lancaster, Laurens, Lee, McCormick, Newberry, Oconee, Pickens, Richland, Saluda, Spartenburg, Sumter, Union and York.

Closures on Canada Geese: The season for Canada geese is closed in Florida and Georgia.

Snow Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1984, and January 31, 1985, States in the Atlantic Flyway may select a 90-day season for snow geese (including blue geese); the daily bag and possession limits are 4 and 8 geese, respectively.

Atlantic Brant

Outside Dates, Season Lengths, and Limits: Between October 1, 1984, and January 20, 1985, States in the Atlantic Flyway may select a 50-day season for Atlantic brant; the daily bag and possession limits are 4 and 8 brant, respectively.

Whistling Swans

In North Carolina an experimental season for whistling swans may be selected subject to the following conditions: (a) the season will be 90 days and must run concurrently with the snow goose season; (b) the State agency must issue permits and obtain harvest and hunter participation data; and (c) no more than 1,000 permits may be issued, authorizing each permittee to take 1 whistling swan.

*Mississippi Flyway*

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

Ducks, Coots and Mergansers

Outside Dates: Between September 29, 1984, and January 20, 1985, in all States, except that the framework opening date is September 22 in Iowa, and the framework closing date is January 31 in Mississippi.

Hunting Season: Not more than 50 days.

Limits: The daily bag limit of ducks is 5, and may include no more than 3 mallards (no more than 2 of which may be females), 1 black duck and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 6 mallards (no more than 4 of which may be females), 2 black ducks and 4 wood ducks (except as noted below). Except in closed areas, the limits of canvasbacks and redheads are 1 daily and 2 in possession for each species.

Closed Areas for Canvasback Hunting:

Mississippi River—(1) Entire river, both sides, from Lock and Dam 9 upstream to the confluence of the Chippewa River. (2) Pool 19 bordering Iowa and Illinois.

Michigan—Macomb and St. Clair Counties, including the adjacent Great Lakes waters and interconnecting waterways under the jurisdiction of the State of Michigan.

Wisconsin—In the Mississippi River Zone, all that part of Wisconsin west of the Burlington-Northern Railroad from Lock and Dam 9 north to the center-line of the Chippewa River.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag and possession limits of coots are 15 and 30, respectively.

Point System Option: As an alternative to conventional bag limits for ducks, a 50-day season with point-system bag and possession limits may be selected within the framework dates prescribed. Point value for species and sexes taken are as follows: except in closed areas, the canvasback and black duck count 100 points each; the redhead, female mallard, wood duck (except as noted below) and hooded merganser count 70 points each; the pintail, blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal and mergansers (except hooded merganser) count 10 points each; the male mallard and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point value of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in 2 days.

Coot Limits—Point System: Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Early Wood Duck Season Option: Arkansas, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between September 29 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value of wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

Western Louisiana: In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Bossier City; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south

along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season for ducks, coots and mergansers may extend 5 additional days. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

Pymatuning Reservoir Area, Ohio: The waterfowl seasons, limits and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Zoning: *Alabama, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, Tennessee* and *Wisconsin* may select hunting seasons for ducks, coots and mergansers by zones described as follows:

*Alabama:* South Zone—Mobile and Baldwin Counties. North Zone—The remainder of Alabama. The season in the South Zone may be split.

Illinois: North Zone—That portion of the State north of a line running east from the Iowa border along Illinois Highway 92 to I-280, east along I-280 to I-80, then east along I-80 to the Indiana border. Central Zone—That portion of the State between the North and South Zone boundaries. South Zone—That portion of the State south of a line running east from the Missouri border along Illinois Highway 55 to Illinois Highway 159, north along Illinois Highway 159 to Illinois Highway 161, east along Illinois Highway 161 to Illinois Highway 4 north along Illinois Highway 4 to I-70, then east along I-70 to the Indiana border.

*Indiana:* North Zone: That portion of the State north of State Highway 18. Ohio River Zone: That portion of Indiana south of Interstate Highway 64. South Zone: That portion of the State between the North and Ohio River Zone boundaries. The season in each zone may be split into two segments.

*Iowa:* North Zone—That portion of Iowa north of Interstate 80. South Zone—the remainder of the State.

*Michigan:* North Zone—The Upper Peninsula. Southeast Zone—Saginaw Bay plus that portion of the State east of U.S. Highways 27 and 127 and south of Michigan Route 20 and U.S. Highway 10. Middle Zone—The remainder of the State.

*Missouri:* North Zone—That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. Highway 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 34, then east along State Highway 34 to the Illinois border. South Zone—The remainder of Missouri. Missouri may split its season in each zone into two segments.

*Ohio:* Zone 1—The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingam, Guernsey, Harrison and Jefferson and all counties north thereof. In addition, Zone 1 also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. Zone 2—That portion of the State between Zones 1 and 3. Zone 3—The counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs. Ohio may split its season in each zone into two segments.

*Tennessee:* Reelfoot Zone—Lake and Obion Counties, or a designated portion of that area. State Zone—The remainder of Tennessee. Seasons may split into two segments in each zone.

*Wisconsin:* North Zone—That portion of the State north of a line extending northerly from the Minnesota border along the center line of the Chippewa River to State Highway 35, east along State Highway 35 to State Highway 25, north along State Highway 25 to U.S. Highway 10, east along U.S. Highway 10 to its junction with the Manitowoc Harbor in the city of Manitowoc, then easterly to the eastern State boundary in Lake Michigan. South Zone—The remainder of Wisconsin. The season in the South Zone may be split into two segments.

Within each State: (1) The same bag limit option must be selected for all zones; and (2) if a special scaup season is selected for a zone, it shall not begin until after the regular season closing date in that zone.

Geese

Definition: For the purpose of hunting regulations listed below, the term "geese" also includes brant.

Outside Dates, Season Lengths and Limits: Between September 29, 1984, and January 20, 1985, States may select 70-day seasons for geese, with a daily bag limit of 5 geese, to include no more than 2 white-fronted geese. The possession limit is 10 geese, to include no more than 4 white-fronted geese. Reguations for Canada geese and exceptions to the above general provisions are shown below by State.

Outside Dates and Limits on Snow and White-fronted Geese in Louisiana: Between September 29, 1984, and February 14, 1985, Louisiana may select 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits as described above.

Minnesota. In the:

(a) Lac Qui Parle Zone (described in State Regulations)—the season for Canada geese closes after 50 days or when 4,500 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose and the possession limit is 2.

(b) Southeastern Zone (described in State regulations)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Remainder of the State—the season for Canada geese will be concurrent with the duck season. The daily bag limit is 1 Canada goose and the possession limit is 2.

Iowa: The season may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season for geese in the Southwest Goose Zone (that portion of the State bounded by the U.S. Highways 92 and 71) may be held at a different time than the season in the remainder of the State.

Missouri. In the:

(a) Swan Lake Zone (described in State regulations)—the season for Canada geese closes after 70 days or when 16,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Southeast Zone (east of U.S. Highway 67 and south of Crystal City)—A 50-day season on Canada geese may be selected between December 1, 1984, and January 20, 1985, with a daily bag limit of 1 Canada goose, and the possession limit of 2.

(c) Remainder of the State—the season for Canada geese will be concurrent with the duck season in the respective duck hunting zones. The daily bag limit is 1 Canada goose and the possession limit is 2.

Wisconsin: In the:

(a) Horicon and Central Zones (Columbia, Dodge, Fond Du Lac, Green Lake, Marquette and Winnebago Counties, and the northwest portion of Washington County north of State Highway 33 and west of U.S. Highway 45)—the harvest of Canada geese is limited to 15,000 birds. The season may

not exceed 25 days, and the seasonal bag limit may not exceed 2 birds.

(b) Mississippi River Zone (that portion of the State west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties)—the season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(c) Northeast Zone (that portion of the North Hunting Zone which includes the Counties of Vilas, Oneida, Lincoln, Marathon, a portion of Wood County, and all counties or portions of counties eastward). The season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2. In Brown County, a special late season to control local populations of giant Canada geese may be held during December 1–31. The daily bag and possession limits during this special season are 2 and 4 birds, respectively.

(d) Southeast Zone (that portion of the South Hunting Zone which includes part of Wood County, Juneau, Sauk, Dane and Green Counties and all counties or portions of counties eastward)—in that portion of the Southeast Zone outside the Horicon and Central tag zones, the season may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2. In the Rock Prarie Zone (described in State regulations), a special late season to harvest giant Canada geese may be held between November 25 and December 9. During the late season, the daily bag limit is 2 Canada geese and the possession limit is 4.

(e) Remainder of the State—The season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

Illinois: In the:

(a) Southern Illinois Quota Zone (described in State regulations)—The season for Canada geese will close after 25 days or when 17,500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Tri-County Area (all of Knox County; the townships of Buckhart, Canton, Cass, Deerfield, Fairview, Farmington, Joshua, Orion, Putnam and that portion of Banner Township bounded on the north by Illinois Route 9 and on the east by U.S. 24 in Fulton County; the township of Alba, Annawan, Atkinson and Cornwall in Henry County)—The season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 4.

(c) Remainder of the State—the season for Canada geese up to 20 days may be selcted by zones established for duck hunting seasons, except that in the South Zone the season will close no later than December 15. The daily bag limit is 1 Canada goose and the possession limit is 4.

Michigan. In the:

(a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon—the season for Canada geese may extend for 20 days, with a framework opening date for all geese of September 26. The daily bag limit is 1 Canada goose and the possession limit is 2.

(b) Southern Michigan Goose Management Area (described in State regulations)—The season for Canada geese may not exceed 35 days between September 29, 1984, and December 20, 1984. During this period, the daily bag limit is 1 Canada goose and the possession limit is 2. A late season of up to 57 days may be held between December 22, 1984, and February 16, 1985 to control local populations of giant Canada geese. During the late season, the daily bag limit is 3 Canada geese and the possession limit is 6.

(c) Remainder of the State:

(1) West of a boundary described as follows: North from the Indiana border along U.S. Highway 131 to U.S. Highway 31, then north along U.S. Highway 31 to I–75, then north along I–75 to the Ontario border—The season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(2) East of the boundary described in (1) above—The season for Canada geese may not exceed 35 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

Ohio: The daily bag limit is 2 Canada geese and the possession limit is 4, except that in the counties of Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercen and Auglaize, the daily bag limit is 1 Canada goose and the possession limit is 2.

Indiana: The season for Canada geese may extend for 70 days, except in Posey County where the season may not exceed 20 days. The daily bag limit is 2 Canada geese and the possession limit is 4, except in Posey County, where the daily bag and possession limits are 1 and 2, respectively. The goose season may be set by zones established for duck hunting.

Kentucky: In the:

(a) West Kentucky Zone (that portion of the State west of a line beginning at the Kentucky-Tennessee border at Fulton, Kentucky, extending northerly along the Purchase Parkway to I–24, east on I–24 to U.S. 641; northerly on U.S. 641 to U.S. 60; northeasterly on U.S. 60 to U.S. 41; and then northerly on U.S. 41 to the Kentucky-Indiana border)—The State may select one of the following options for Canada geese:

(1) A season not to exceed 20 days, with a daily bag limit of 1 Canada goose and a possession limit of 2.

(2) A season not to exceed 25 days, with a daily bag limit of 2 Canada geese and a possession limit of 4. If this option is selected, the progression of the harvest will be monitored and the season will close after 25 days or when 7,000 birds have been harvested, whichever occurs first.

Under both options, the season may extend to January 31, 1985.

(b) Remainder of the State—The season may extend for 70 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Tennessee: In the:

(a) Northwest Zone (Lake, Obion, Weakley and Carroll Counties, and those portions of Gibson and Dyer Counties north of State Highways 20 and 104 and east of U.S. Highway 45W)—The State may select one of the following options for Canada geese:

(1) A season not to exceed 20 days, with a daily bag limit of 1 Canada goose and a possession limit of 2.

(2) A season not to exceed 25 days, with a daily bag limit of 2 Canada geese and a possession limit of 4. If this option is selected, the progression of the harvest will be monitored and the season will close after 25 days or when 1,500 birds have been harvested, whichever occurs first.

Under both options, the season may extend to January 31, 1985.

(b) Southwest Zone (that portion of the State bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45)—The season for Canada geese may extend for 15 days, with a framework closing date of January 31, 1985. The daily bag limit is 1 Canada goose and the possession limit is 2.

(c) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 1 Canada goose and the possession limit is 2, except in that portion west of State Highway 13, where the daily bag and possession limits are 2 and 4, respectively.

Arkansas and Louisiana: The season for Canada geese is closed.

Mississippi: In the:

(a) Sardis Zone (described in State regulations)—The season for Canada geese may extend for 30 days, 10 days of

which must occur before December 15, 1984. The daily bag limit is 1 Canada goose and possession limit is 2.

(b) Remainder of the State—The season for Canada geese may not exceed 15 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

In both areas, the framework closing date is January 31, 1985.

Alabama: The season is closed for all geese in the counties of Henry, Russell and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese and the possession limit is 4.

Missouri, Illinois, Kentucky and Tennessee Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Southern Illinois Zone, the Swan Lake Zone in Missouri, and, if applicable, the West Kentucky Zone and the Northwest Zone in Tennessee will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Shipping Restrictions: In Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton and Carlisle, geese may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

*Central Flyway*

The Central Flyway includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the entire Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas and Wyoming (east of the Continental Divide).

Ducks (including Mergansers) and Coots

Outside Dates: September 29, 1984, through January 20, 1985.

Hunting Season: The season in the Low Plains Unit may include no more than 60 days. The season in the High Plains Mallard Management Unit may include no more than 83 days provided that the last 23 days of such season must begin on or after December 8, 1984. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations.

States may split their seasons into 2 or, in lieu of zoning, 3 segments.

Daily Bag and Possession Limits: Conventional limits for ducks are 5 daily, including no more than 1 canvasback, 1 redhead, 1 female mallard, 1 hooded merganser and 2 wood ducks; and 10 in possession, including no more than 1 canvasback, 2 redheads, 2 female mallards, 2 hooded mergansers and 4 wood ducks.

As an alternative to conventional bag and possession limits for ducks, States may select point system regulations. Under this system, the daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The point values are: canvasbacks, 100 points each; female mallards, Mexican-like ducks, mottled ducks (Texas only), wood ducks, redheads and hooded mergansers, 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup, pintail, gadwalls, wigeon, shovelers and mergansers (except the hooded merganser), 10 points each; all other species and sexes of ducks, 20 points each. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

The daily bag and possession limits of coots are 15 and 30, respectively.

Zoning: *Montana, Nebraska, New Mexico, South Dakota, Oklahoma,* and *Wyoming* may select hunting seasons for ducks (including mergansers) and coots either statewide or by zones described as follows:

Montana: Two experimental zones in the Central Flyway portion as follows:

Zone 1. The counties of Bighorn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland and Yellowstone.

Zone 2. The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure and Wibaux.

Nebraska: Four zones within the Low Plains portion as follows:

Zone 1. Keya Paha County east of U.S. Highway 183 and all of Boyd County including the adjacent waters of the Niobrara River.

Zone 2. The area bounded by designated highways and political boundaries starting on U.S. 73 at the State Line near Falls City; north to N–67; north through Nemaha to U.S. 73–74; north to U.S. 34; west to the Alvo Road; north to U.S. 6; northeast to N–63; north and west to U.S. 77; north to N–92; west to U.S. 81; south to N–66; west to N–14; south to I–80; west to U.S. 34; west to N–10; south to the State Line; west to U.S. 283; north to N–23; west to N–47; north to U.S. 30; east to N–14; north to N–52; northwesterly to N–91; west to U.S. 281; north to Wheeler County and including all of Wheeler and Garfield Counties and Loup County east of U.S. 183; east on N–70 from Wheeler County to N–14; south to N–39; southeast to N–22; east to U.S. 81; southeast to U.S. 30; east to U.S. 73; north to N–51; east to the State Line; and south and west along the State Line to the point of beginning.

Zone 3. The area, excluding Zone 1, Zone 2.

Zone 4. The area south of Zone 2.

New Mexico: Two experimental zones as follows:

Zone 1. The Central Flyway portion of New Mexico north of Interstate Highway 40 and U.S. Highway 54.

Zone 2. The remainder of the Central Flyway portion of New Mexico.

*Oklahoma:* Two experimental zones in the Low Plains portion as follows:

Zone 1. That portion of northwestern Oklahoma, except the Panhandle, bounded by the following highways: starting at the Texas-Oklahoma border, OK 33 to OK 47, OK 47 to U.S. 183, U.S. 183 to I–40, I–40 to U.S. 177, U.S. 177 to OK 51, OK 51 to I–35, I–35 to U.S. 60, U.S. 60 to U.S. 64, U.S. 64 to OK 132, and OK 132 to the Oklahoma-Kansas state line.

Zone 2. The remainder of the Low Plains portion.

*South Dakota:* Two zones within the Low Plains portion as follows:

South Zone. Bon Homme County south of S.D. Highway 50; Charles Mix County south and west of a line formed by S.D. Highway 50 from Douglas County to Geddes, Highways CFAS 6198 and FAS 3207 to Lake Andes, and S.D. Highway 50 to Bon Homme County; Gregory County; and Yankton County west of U.S. Highway 81.

North zone. The remainder of the Low Plains portion.

*Wyoming:* Four zones in the Central Flyway portion as follows:

Zone 1. Sheridan, Johnson, Natrona, Campbell, Crook, Weston, Converse and Niobrara Counties.

Zone 2. Platte, Goshen and Laramie Counties.

Zone 3. Carbon and Albany Counties.

Zone 4. Park, Big Horn, Hot Springs, Washakie and Fremont Counties.

Geese

Definitions: In the Central Flyway, "geese" includes all species of geese and brant, "dark geese" includes Canada and white-fronted geese and black brant, and "light geese" include all other speies.

Outside Dates: September 29, 1984 through January 20, 1985, for dark geese and September 29, 1984 through February 17, 1985 for light geese, except as noted for New Mexico.

Possession Limits: Goose possession limits are twice the daily bag limits.

West Tier States. States in this tier may select seasons either statewide or in designated management units as follows:

Montana: No more than 93 days; daily bag limits are 2 geese in Sheridan County and 3 geese in the remainder of the Central Flyway portion.

Wyoming: No more than 93 days with daily bag limits of 2 geese for each of four Goose Management Units which coincide with management zones for ducks.

Colorado: No more than 93 days with a daily bag limit of 2 geese.

New Mexico: For dark geese, no more than 93 days with a daily bag limit of 2 during the period September 29, 1984 through January 20, 1985; and for light geese, no more than 93 days with a daily bag limit of 5 during the period September 29, 1984 through February 28, 1985.

Texas (west of U.S. 81): No more than 93 days with a daily bag limit of 5 geese which may include no more than 2 dark geese.

East Tier States—Light geese. North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and that portion of Texas east of U.S. Highway 81 may select a season for light geese of no more than 86 days with a daily bag limit of 5 geese.

East Tier States—Dark geese. States may select seasons statewide or in designated management units for dark geese of no more than 72 days, except in Nebraska and South Dakota as noted, with a daily bag limit of 2 geese except as follows:

North Dakota: The daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese through October 28 and no more than 2 Canada geese or 2 white-fronted geese or 1 of each during the remainder of the season.

South Dakota: In Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson (east of SD Highway 65), Dewey, Gregory, Haakon (north of Kirley Road and east of Plum Creek), Hughes, Hyde, Lyman, Potter, Stanley, Sully, Tripp (east of U.S. Highway 183), Walworth and Yankton (west of U.S. Highway 81) Counties, the season length may not exceed 79 days and the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose through November 9, and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season. In the remainder of the State, the season length may be no more than 72 days and the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose.

Nebraska: In Goose Management Unit 1 comprised of Boyd, Cedar (west of U.S. Highway 81), Keya Paha (east of U.S. Highway 183) and Knox Counties, the season length may be no more than 79 days and the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose through November 9 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

In Goose Management Unit 2, the remainder of Nebraska east of the following highways starting at the South Dakota line; U.S. 183 to NE 2, NE 2 to U.S. 281, and U.S. 281 to the Kansas line; and in Goose Management Unit 3, that portion of Nebraska west of these highways, the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 20 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

Kansas: The daliy bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 25 and no more than 1 Canada goose and 1 white-fronted goose during the remainder of the season.

Oklahoma: In Goose Management Unit 1 (that portion of western and southern Oklahoma bounded by the following highways: starting at the Kansas-Oklahoma line, U.S. 77 to U.S. 177, U.S. 177 to OK 33, OK 33 to U.S. 75, U.S. 75 to Indian Nation Turnpike, Indian Nation Turnpike to U.S. 271, and U.S. 271 to the Oklahoma-Texas line) and in Goose Management Unit 2 (the remainder of Oklahoma), the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

Texas: In that portion east of U.S. Highway 81, the bag limit may include no more than 1 Canada goose and 1 white-fronted goose daily.

Whistling Swans

The following States may issue permits authorizing each permittee to take no more than one whistling swan, subject to guidelines in a current, approved management plan and general conditions that each State determine hunter participation and harvests, and specified conditions as follows:

Montana (Central Flyway portion); no more than 500 permits with the season dates concurrent with the season for taking geese.

North Dakota: no more than 1,000 permits with the season dates concurrent with the season for taking ducks.

South Dakota: no more than 500 permits with the season dates concurrent with the season for taking ducks.

*Pacific Flyway*

The Pacific Flyway includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington and Wyoming (west of the Continental Divide including the Great Divide Basin).

Ducks (including Mergansers), Coots, Gallinules and Common Snipe

Outside Dates: Between September 29, 1984, and January 20, 1985.

Hunting Seasons: Concurrent 93-day seasons on ducks, coots, gallinules and common snipe may be selected except as subsequently noted.

Duck Limits: Basic daily bag and possession limits for ducks are 7 and 14, respectively. No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

Coot and Gallinule Limits: The daily bag and possession limit of coots and gallinules is 25 singly or in the aggregate.

Common Snipe Limits: The daily bag and possession limit of common snipe is 8 and 16, respectively.

California—Waterfowl Zones: Season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona. Season dates for the Northeastern and Southern Zones of California may differ from those in the remainder of the State.

Nevada-Clark County Waterfowl Zone: Season dates for Clark County may differ from those in the remainder of Nevada.

"Columbia Basin" Portions of Washington, Oregon, and Idaho: In the Idaho counties of Ada, Bannock, Benewah, Blaine, Bonner, Boundary,

Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Twin Falls, Washington and that portion of Bingham County lying outside the Blackfoot Reservoir drainage; the Oregon counties of Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco; and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County, the seasons may be 100 days and must run concurrently.

Colorado, Montana, New Mexico and Wyoming—Common Snipe: For States partially within the Flyway a 93-day season for common snipe may be selected to occur between September 1, 1984, and February 28, 1985, and need not be concurrent with the duck season.

Geese (including Brant)

Outside dates, season lengths and limits on geese (including brant): Between September 29, 1984, and January 20, 1985, a 93-day season on geese (except brant in Washington, Oregon and California) may be selected, except as subsequently noted. The basic daily bag and possession limit is 6, provided that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (all other species of geese). The basic daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively. Between October 20 and November 30, 1984, Washington, Oregon and California may select an open season for brant with daily bag and possession limits of 2 and 4 brant, respectively.

Aleutian Canada goose closure: The season is closed on the Aleutian Canada goose. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

Cackling Canada goose closure: The season is closed on the cackling Canada goose in California, Oregon and Washington.

Canada goose closures in California: Three areas in California, described as follows, are restricted in the hunting of Canada geese:

(1) In the counties of Del Norte and Humboldt there will be no open season for Canada geese.

(2) In the Sacramento Valley in that area bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, the hunting season for Canada geese will not open before December 15 and may continue to the end of the waterfowl hunting season.

(3) In the San Joaquin Valley in that area bounded by a line beginning at Modesto in Stanislaus County preceeding west on State Highway 132 to the junction of Interstate Highway 5; then southerly on Interstate Highway 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly on State Highway 99 to the point of beginning; the hunting season for Canada geese will close no later than November 23.

Western Oregon: Those portions of Coos and Curry Counties lying west of U.S. Highway 101 and that portion of Tillamook County lying south of an east-west line passing through the most westerly point of Cape Lookout shall be closed to the hunting of Canada geese. The season on Canada geese in the remainder of Western Oregon shall extend from November 17 through December 16, with bag and possession limits of 1 goose. On State management areas and National Wildlife Refuges having controlled hunts within the area, the bag and possession limits may be increased to 3 geese, of which only 1 may be a dusky Canada goose. A method of validating geese harvested on these areas is a condition of the optionally larger limits.

"Columbia Basin" Portions of Washington and Orgeon—geese: In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa and Wasco, the goose season may be of 100 days duration and must run concurrently with the duck season.

Oregon (Lake and Klamath Counties)—geese: In the Oregon counties of Lake and Klamath the season on dark geese will not open until two weeks after the opening date of the white goose season and be two weeks less than the white goose season.

California (Northern Zone)—geese: In the Northern Zone of California the season may be from October 13 to January 13, except that white-fronted geese may be taken only during October 13 to November 4. Limits will be 3 geese per day and 3 in possession, of which not more than 1 may be a dark goose in the daily bag, or 2 dark geese in possession. The daily bag limit on dark geese may be expanded to 2, provided both are Canada geese.

California (Balance of the State Zone)—geese: In the Balance of the State Zone season may be from November 3 through January 20, except that white-fronted geese may be taken only during November 3 to January 6. Limits shall be 3 geese per day and in possession, of which not more than 1 may be a dark goose. The dark goose limits may be expended to 2 provided that they are Canada geese (except Aleutian and cackling Canada geese for which the season is closed).

Pacific Population of Canada geese—Idaho, Oregon and Montana: In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nex Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in Montana (Pacific Flyway portion west of the Continental Divide), the daily bag and possession limits are 2 Canada geese and the season for Canada geese may not extend beyond January 5, 1985.

Rocky Mountain Population of Canada Geese—Montana and Wyoming: In Montana (Pacific Flyway portion east of the Continental Divide) and Wyoming the season may not extend beyond January 5, 1985. In Lincoln County, Wyoming, the combined special sandhill crane-Canada goose season and the regular goose season shall not exceed 93 days.

Idaho, Colorado and Utah: In that portion of Idaho lying east of the line

formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in Colorado; and in Utah, except Washington County, the daily bag and possession limits are 2 and 4 Canada geese, respectively, and the season for Canada geese may be no more than 86 days and may not extend beyond January 5, 1985.

Nevada: Nevada may designate season dates on geese in Clark County and in Elko County and that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from those in the remainder of the State. In Clark County the season on Canada geese may be no more than 86 days. The daily bag and possession limit is 2 Canada geese throughout the State.

Arizona, California, Utah and New Mexico: In California, the Colorado River Zone where the season must be the same as that selected by Arizona and the Southern Zone; in Arizona; in New Mexico; and in Washington County, Utah; the season for Canada geese may be no more than 86 days. The daily bag and possession limit is 2 Canada geese except in that portion of California Department of Fish and Game District 22 within the Southern Zone (i.e. Imperial Valley) where the daily bag and possession limits for Canada geese are 1 and 2, respectively.

Western Washington: In the Washington counties of Island, Skagit, Snohomish and Whatcom, the season for snow geese may not extend beyond January 1, 1985. In Clark and Cowlitz counties the season on Canada geese shall extend from November 17 through December 16, with bag and possession limits of 1 goose. On State management areas and National Wildlife Refuges having controlled hunts within these two counties, the bag and possession limits may be increased to 3 geese, of which only 1 may be dusky Canada goose. A method of validating geese harvested in these areas is a condition of the optionally larger limits.

Whistling Swans

In Utah, Nevada and Montana, an open season for whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) the appropriate State agency must issue permits and obtain harvest and hunter participation data; (c) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (d) in Nevada, no more than 650 permits may be issued, authorizing each permittee to take 1 whistling swan in either Churchill, Lyon, or Pershing Counties; (e) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in either Teton or Cascade Counties.

Sandhill Cranes

Arizona may select an experimental sandhill crane season subject to the conditions specified in the frameworks for early seasons.

*Special Falconry Frameworks*

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must faill within the regular and any special season framework dates.

Daily Bag and Possession Limits: Daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

Regulations Publications: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 2.29(k) which does not select an extended falconry season.

**Note:** In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season or falconry season) exceed 107 days for a species in one geographical area.

Dated: August 14, 1984.

**G. Ray Arnett,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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## LIST OF PUBLIC LAWS

**Last List July 26, 1984.**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

**S. 373 / Pub. L. 98-373**
To provide for a comprehensive national policy dealing with national research needs and objectives in the Arctic, for a National Critical Materials Council, for development of a continuing and comprehensive national materials policy, for programs necessary to carry out that policy, including Federal programs of advanced materials research and technology, and for innovation in basic materials industries, and for other purposes. (July 31, 1984; 98 Stat. 1242) Price: $2.25

**H.J. Res. 577 / Pub. L. 98-374**
Designating August 1984 as "Polish American Heritage Month". (August 7, 1984; 98 Stat. 1255) Price: $1.50

**H.R. 1492 / Pub. L. 98-375**
Christopher Columbus Quincentenary Jubilee Act. (August 7, 1984; 98 Stat. 1257) Price: $1.75

**H.R. 559 / Pub. L. 98-376**
Insider Trading Sanctions Act of 1984. (August 10, 1984; 98 Stat. 1264) Price: $1.50

**H.R. 1310 / Pub. L. 98-377**
Education for Economic Security Act. (August 11, 1984; 98 Stat. 1267) Price: $3.50

## CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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| 11 | 7.50 | Apr. 1, 1984 |
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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

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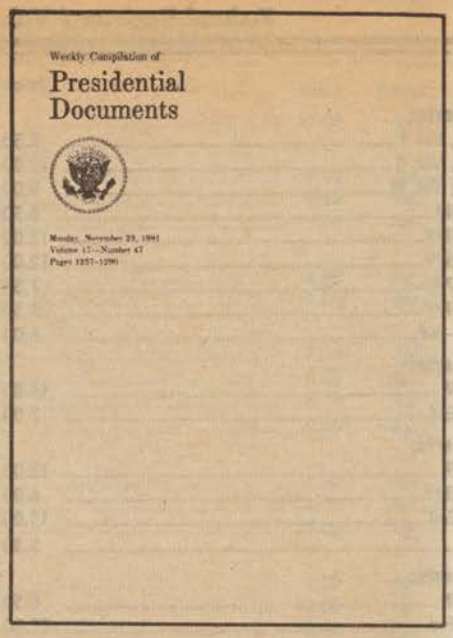


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